

# EXHIBIT 9

**In The Matter Of:**  
*BRENNER vs.*  
*MEnD CORRECTIONAL CARE, et al.*

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*TODD LEONARD*  
*July 8, 2020*

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*Herbert L. Peterson & Associates*  
*11900 Wayzata Boulevard*  
*Suite 116 D*  
*Minnetonka, Minnesota 55305*  
*952-543-6910*



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1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF MINNESOTA  
3 -----  
4 Dawn Brenner and Kathleen Brenner, as co-trustees  
for the heirs and next of kin of Dylan Brenner,  
5 Plaintiffs,  
6 Court File No.  
-vs- 18-cv-02383 (NEB/ECW)  
7 Danielle Sue Asfeld, in her individual capacity,  
8 Amanda Nowell, in her individual capacity,  
9 Christina Leonard, in her individual capacity,  
10 Janell Hussain, in her individual capacity,  
11 Todd Leonard, in his individual and official  
12 capacities,  
13 Rebecca Lucar, in her individual capacity,  
14 Denny Russel, in his individual capacity,  
15 Wes Graves, in his individual capacity,  
16 James Rourke, in his individual capacity,  
17 MENd Correctional Care, PLLC, and Sherburne  
18 County,  
19 Defendants.  
20 -----  
21 DEPOSITION OF TODD LEONARD,  
22 taken at the offices of Larson King, 30 East  
23 Seventh Street, Suite 2800, St. Paul, Minnesota,  
24 taken on the 8th day of July, 2020, commencing at  
25 approximately 10:05 a.m., before Stacy Ann  
Hutchinson, a Notary Public in and for the County  
of Hennepin, State of Minnesota, taken pursuant  
to the Rules of Civil Procedure.  
\* \* \*

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1 APPEARANCES:  
2 JEFFREY S. STORMS, Esq., of the firm of  
3 Newmark Storms Dworak Law Office, 100 South Fifth  
4 Street, Suite 2100, Minneapolis, Minnesota,  
5 appearing in behalf of the Plaintiffs; and,  
6 STEPHANIE A. ANGOLKAR, Esq., of the firm of  
7 Iverson Reuvers Condon, 9321 Ensign Avenue South,  
8 Bloomington, Minnesota, appearing in behalf of  
9 the Defendants; and,  
10 ANTHONY J. NOVAK, Esq., of the firm of  
11 Larson King, 30 East Seventh Street, Suite 2800,  
12 St. Paul, Minnesota, appearing in behalf of the  
13 Defendants; and,  
14 JEFFREY M. MONTPETIT, Esq., of the firm of  
15 Sieben Carey, 901 Marquette Avenue, Suite 500,  
16 Minneapolis, Minnesota, appearing in behalf of  
17 the Plaintiffs.  
18 \* \* \*  
19 EXAMINATION FURTHER EXAMINATION  
20 Mr. Storms 4  
21 \* \* \*  
22 EXHIBITS  
23 Description Number Marked  
24 Deposition Notice 103 4  
25 Manual Title Page 104 36

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| Description                 | Number | Marked |
|-----------------------------|--------|--------|
| Suicide Risk Screening Form | 105    | 58     |
| Answers to Interrogatories  | 106    | 140    |
| County Map                  | 107    | 142    |
| Answers to Interrogatories  | 108    | 147    |
| Health Assessment           | 109    | 150    |
| Jail Records                | 110    | 179    |
| * * *                       |        |        |

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1 (Exhibit Number 103 was  
2 marked for identification.)  
3 TODD LEONARD,  
4 was called as a witness and, being first duly  
5 sworn, was examined and testified as follows:  
6 EXAMINATION  
7 BY MR. STORMS:  
8 Q. Would you please state and spell your  
9 complete name for the record, sir?  
10 A. Yeah. Todd Arthur Leonard, T-O-D-D,  
11 A-R-T-H-U-R, L-E-O-N-A-R-D.  
12 Q. And how old are you, sir?  
13 A. I'm 51.  
14 Q. And I've seen that you've given several  
15 depositions before?  
16 A. I've given a few.  
17 Q. You've given several to Robert Bennett in  
18 other matters related to suicides?  
19 A. I've given a few to Robert Bennett, I don't  
20 know the total number.  
21 Q. You've given one on the Baxter/Newton case?  
22 A. Correct.  
23 Q. And you gave one on the Lynas case?  
24 A. Correct.  
25 Q. And in each of those deposition transcripts

|  |   |
|--|---|
| <p style="text-align: right;">Page 5</p> <p>1 did you take the opportunity to review and</p> <p>2 make corrections?</p> <p>3 <b>A. I believe so. Whatever the process is,</b></p> <p>4 <b>that's what I would have done.</b></p> <p>5 Q. And you gave truthful testimony each of those</p> <p>6 times?</p> <p>7 <b>A. Correct.</b></p> <p>8 Q. And you understand that you've been deposed</p> <p>9 in those instances in your individual</p> <p>10 capacity?</p> <p>11 <b>A. Again, I'm not an attorney but I believe so.</b></p> <p>12 Q. Do you understand that you are testifying</p> <p>13 today in the capacity of a 30(b)(6) witness?</p> <p>14 <b>A. I understand that term, I don't fully</b></p> <p>15 <b>understand all the details of that, but I</b></p> <p>16 <b>understand the general meaning.</b></p> <p>17 Q. Have you ever given testimony as a 30(b)(6)</p> <p>18 witness before?</p> <p>19 <b>A. One time.</b></p> <p>20 Q. Do you recall what case that was on?</p> <p>21 <b>A. I believe that was the Lynas case.</b></p> <p>22 Q. And as in this case and the Lynas case you</p> <p>23 received the deposition notice with numerous</p> <p>24 topics for you to provide testimony on?</p> <p>25 <b>A. Correct.</b></p> | <p style="text-align: right;">Page 7</p> <p>1 <b>of pages of documents and such.</b></p> <p>2 Q. And in preparing for today's deposition we'll</p> <p>3 talk about what particular documents you</p> <p>4 reviewed, but did you have conversations with</p> <p>5 anyone to prepare for today's deposition?</p> <p>6 <b>A. I've had conversations with attorneys, I've</b></p> <p>7 <b>gathered information from some of my staff</b></p> <p>8 <b>who would run reports for me or things of</b></p> <p>9 <b>that nature.</b></p> <p>10 Q. Which attorneys did you meet with?</p> <p>11 <b>A. I met personally with Tony Novak and I've had</b></p> <p>12 <b>telephone conversations with Tony Novak and</b></p> <p>13 <b>Carrie Nearing.</b></p> <p>14 Q. No other attorneys in preparation for this</p> <p>15 deposition?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Did you talk to any insurance adjustors in</p> <p>18 preparation for today's deposition?</p> <p>19 <b>A. Not in preparation for this deposition.</b></p> <p>20 Q. Have you spoke with an insurance adjustor</p> <p>21 about this case?</p> <p>22 <b>A. Simply just to inform them that this case is</b></p> <p>23 <b>active and just operational things.</b></p> <p>24 Q. How often do you have contact with the</p> <p>25 insurance adjustor?</p>   |
| <p style="text-align: right;">Page 6</p> <p>1 Q. You understand that you've been provided with</p> <p>2 a notice in this case to provide testimony</p> <p>3 regarding topics?</p> <p>4 <b>A. Correct.</b></p> <p>5 Q. And I'm going to hand you what's been marked</p> <p>6 as Exhibit 103.</p> <p>7 <b>A. Okay.</b></p> <p>8 Q. This is the Second Amended Rule 30(b)(6)</p> <p>9 Notice. I'll represent to you that the only</p> <p>10 difference is the change in date.</p> <p>11 <b>A. Okay.</b></p> <p>12 Q. If you could take a chance to review just to</p> <p>13 confirm these are the topics you prepared to</p> <p>14 provide testimony on today?</p> <p>15 <b>A. As long as they have not changed, that is</b></p> <p>16 <b>true. This appears to be the same that I've</b></p> <p>17 <b>seen before.</b></p> <p>18 Q. And you understand that you have been noticed</p> <p>19 to provide an individual deposition in this</p> <p>20 case in two weeks as well?</p> <p>21 <b>A. Whenever that is from now but, yes, I'm aware</b></p> <p>22 <b>of that.</b></p> <p>23 Q. And you took the time to prepare for your</p> <p>24 deposition today?</p> <p>25 <b>A. Yes. I have reviewed thousands and thousands</b></p>                 | <p style="text-align: right;">Page 8</p> <p>1 <b>A. Rarely.</b></p> <p>2 Q. And the staff that you spoke with in</p> <p>3 preparation for today, who are they?</p> <p>4 <b>A. I've had reports generated, information</b></p> <p>5 <b>sought by Julie Nowacki, my human resource</b></p> <p>6 <b>director; Traci Newman, my business officer</b></p> <p>7 <b>manager; Diana VanDerBeek, nursing director</b></p> <p>8 <b>at Sherburne.</b></p> <p>9 Q. How do you spell Julie's last name?</p> <p>10 <b>A. N-O-W-A-C-K-I.</b></p> <p>11 Q. And when did you start having conversations</p> <p>12 with them with respect to preparing for</p> <p>13 today's deposition?</p> <p>14 <b>A. That's a difficult question for me to answer</b></p> <p>15 <b>because these are the people that assisted me</b></p> <p>16 <b>in collecting information for quite some time</b></p> <p>17 <b>now. So I can't give you an exact answer but</b></p> <p>18 <b>it's been throughout this process.</b></p> <p>19 Q. Any specific conversations that you've had</p> <p>20 with them to prepare for today's deposition?</p> <p>21 <b>A. Oh, no. No. Other than just getting</b></p> <p>22 <b>information that I needed to be prepared.</b></p> <p>23 Q. Did you speak with Diana VanDerBeek about the</p> <p>24 deposition testimony she gave?</p> <p>25 <b>A. No.</b></p> |

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1 Q. Have you spoken to anyone from MENd about the  
2 deposition testimony they've given in this  
3 case?  
4 A. No.  
5 Q. Have you read any deposition transcripts in  
6 preparation for today?  
7 A. Yes.  
8 Q. Whose transcripts have you read?  
9 A. I've read Diana VanDerBeek, Danielle Asfeld,  
10 Christina Leonard, Pat Carr, Rebecca Lucar,  
11 and our health technician, I always butcher  
12 her last name but --  
13 Q. Who?  
14 A. The health technician that was deposed.  
15 Q. Which one?  
16 A. I butcher her last name, I apologize, but I'm  
17 blanking on her name now. I apologize.  
18 Q. Do you remember her first name?  
19 A. Goodness. It starts with a B.  
20 Q. Briony Bohn?  
21 A. No.  
22 Q. Brittany --  
23 MR. NOVAK: It was Brittany.  
24 THE WITNESS: Thank you. Brittany.  
25 Thank you.

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1 BY MR. STORMS:  
2 Q. In your preparation to provide testimony as a  
3 designee today and reviewing those  
4 transcripts, was there anything that you  
5 reviewed in those transcripts that you  
6 thought mischaracterized any of MENd's  
7 operations?  
8 A. Oh, I would have to -- I would have to look  
9 through each one individually to give you an  
10 accurate answer of that. Nothing comes to  
11 mind but I don't remember to that level of  
12 detail.  
13 Q. So as you sit here today the answer would be  
14 no?  
15 A. My answer would be just as I stated, I would  
16 literally have to go through each line to  
17 accurately answer that.  
18 Q. Well, I understand what you are saying but  
19 I'm asking you as you sit here today is there  
20 any particular testimony that you recall that  
21 you believe mischaracterizes MENd's  
22 operations?  
23 MR. NOVAK: Asked and answered. Go  
24 ahead.  
25 THE WITNESS: I just can't recall

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1 if there is anything in particular from  
2 those depositions that mischaracterizes  
3 that. It's impossible for me to answer  
4 without going through those individually  
5 with you.  
6 BY MR. STORMS:  
7 Q. Well, it's possible to answer the question  
8 about whether or not you recall today  
9 anything, right? That's a possible answer  
10 for you.  
11 A. Okay.  
12 Q. True?  
13 A. I'm sorry, what is the question?  
14 Q. Well, if you recalled something, right, that  
15 would be a yes or no answer today?  
16 A. Well, as I mentioned just earlier, I don't  
17 recall anything off the top of my mind, but  
18 to be accurate I'd have to go through each  
19 individual one and tell you if there is  
20 anything that comes to mind as I reviewed  
21 them.  
22 Q. Aside from operations, do you recall anything  
23 in particular that you believe  
24 mischaracterized MENd's policies and  
25 procedures in any respect?

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1 A. It's the same answer for me.  
2 Q. Nothing you recall today?  
3 A. Nothing off the top of my mind but, again, I  
4 would have to review those very intricately  
5 to answer that accurately.  
6 Q. So did you review those deposition  
7 transcripts intricately in preparation for  
8 today's deposition?  
9 A. I read through them thoroughly.  
10 Q. And did you have any conversations with Pat  
11 Carr about his deposition testimony?  
12 A. No.  
13 Q. Have you had any -- in preparation for  
14 today's deposition, did you have any  
15 conversations with anyone from Sherburne  
16 County?  
17 A. You mean from Sherburne County Sheriffs  
18 Department?  
19 Q. Anyone from Sherburne County government at  
20 all in preparation for this deposition?  
21 A. That's what I was looking for. No, I haven't  
22 had any conversations with them in  
23 preparation for this.  
24 Q. When was the last time you would have had any  
25 conversation with Pat Carr at all about Dylan

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1 Brenner?

2 **A. I don't know. I just don't recall the last**

3 **time him and I had a conversation about Dylan**

4 **Brenner specifically.**

5 Q. What about the last conversation that would

6 have been had related to MENd's contract with

7 Sherburne County, would you have had any

8 recent conversations about that with

9 Mr. Carr?

10 **A. My best estimate is approximately two months**

11 **ago. And that's an estimate.**

12 Q. And what was the nature of that conversation?

13 **A. Twofold. It was that they are changing their**

14 **ICE national detention standards that they**

15 **must abide by moving forward, and just**

16 **discussing the ins and outs of that and if**

17 **there is anything that we need to change on**

18 **our end related to that. And then ongoing**

19 **conversations regarding our pursuit of**

20 **accreditation by the NCCHC, similar topics**

21 **with that.**

22 Q. And what is the NCCHC?

23 **A. National Commission on Correctional Health**

24 **Care.**

25 Q. And MENd is in the process of seeking that

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1 accreditation?

2 **A. Well, it's technically Sherburne County Jail,**

3 **we are assisting in that pursuit.**

4 Q. Did Mr. Carr discuss at all with you your

5 personal presence at the Sherburne County

6 facility as part of MENd staffing?

7 **A. I don't recall that.**

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Q. And my understanding is that there was a

12 recent resignation of the medical provider at

13 the Sherburne County Jail?

14 **A. Oh, the primary medical provider there,**

15 **Janell Hussain?**

16 Q. Correct.

17 **A. Yes. Fairly recently.**

18 Q. Was that a resignation or a termination?

19 **A. Resignation.**

20 Q. Was she given the opportunity to resign prior

21 to termination?

22 **A. No.**

23 Q. So it was wholly voluntary that she resigned?

24 **A. Wholly voluntary.**

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 Q. Aside from talking to employees along the

4 way, conversations with your attorneys, and

5 the review of deposition transcripts, you had

6 said you also reviewed many documents?

7 **A. Mm-hum.**

8 Q. Yes?

9 **A. Yes.**

10 Q. Do you recall what documents those were?

11 **A. Oh, my goodness. I wouldn't have an**

12 **exhaustive list but medical records,**

13 **exhibits. I wouldn't have an exhaustive list**

14 **in my mind right now.**

15 Q. Did you review medical records for inmates

16 other than Dylan Brenner who committed

17 suicide at Sherburne County Jail?

18 **A. Yes.**

19 Q. Anything else that you would have done to

20 prepare for today's deposition?

21 **A. I guess I would need to know a little more**

22 **specifically what you are asking. I mean, I**

23 **prepared.**

24 Q. Okay. We can talk on an individual basis

25 related to the topics. So topic number one,

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1 MENd's corporate structure from January 1,

2 2010 through the present, are you prepared to

3 provide testimony on that topic?

4 **A. I am.**

5 Q. Did you have to review anything to prepare

6 testimony on that topic?

7 **A. I reviewed our organizational chart but I'm**

8 **fairly familiar with our structure.**

9 Q. In terms of ownership structure, the company

10 is founded as a Professional Limited

11 Liability Company?

12 **A. It wasn't originally founded as that, we**

13 **achieved that along the way. But it was an**

14 **LCC and then became a PLLC.**

15 Q. And have you always been the sole member or

16 owner?

17 **A. Yes. So MENd Correctional Care solely owned**

18 **by Dr. Todd Leonard Consulting, LLC, and I'm**

19 **the sole owner. And that has been the**

20 **ownership the entire decade.**

21 Q. When did you form Todd Leonard Consulting?

22 **A. I wouldn't be able to give you an exact date.**

23 **It would have been 2006 or 2007, in that time**

24 **frame.**

25 Q. Was that a consulting business formed for the

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1 purpose of providing correctional health  
2 care?  
3 **A. It was formed for my individual capacity in**  
4 **providing correctional health care.**  
5 Q. And you were and remain the only member of  
6 Todd Leonard Consulting?  
7 **A. Correct.**  
8 Q. And Todd Leonard Consulting is the only  
9 member or owner of MENd Correctional Care,  
10 PLLC?  
11 **A. Correct.**  
12 Q. Are there any other employees who receive  
13 payment at MENd that correlates with MENd's  
14 annual revenues or profits?  
15 **A. I'm not sure I'm following. I'm sorry.**  
16 Q. So I recognize that you are the only owner,  
17 but are there any other employees at MENd who  
18 receive either bonuses or some other income  
19 that correlates with MENd's revenue or  
20 profits?  
21 **A. I think I know what you are asking. So**  
22 **beyond salary. Okay. Most years I've been**  
23 **able to give a year-end bonus to my**  
24 **leadership team. Not every year but most**  
25 **years.**

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1 Q. Is that a discretionary bonus?  
2 **A. It is.**  
3 Q. So is there anyone who has, like, a formula,  
4 if MENd hits this achievement or that  
5 achievement they automatically get some  
6 additional payment?  
7 **A. No.**  
8 Q. And who constitutes MENd's leadership team?  
9 **A. Myself, our HR director.**  
10 Q. Which would be?  
11 **A. Julie Nowacki. Our business office manager,**  
12 **Traci Newman; director of nursing, Michelle**  
13 **Skroch; training director, which is currently**  
14 **Miranda Habiger; our mental health director,**  
15 **Linda Pantzke; and our team of nursing**  
16 **directors.**  
17 Q. And who is that team?  
18 **A. Do you want me to go through each individual**  
19 **one?**  
20 Q. Yes, please.  
21 **A. Okay. Currently we have Tara Giller, Crystal**  
22 **Peterson, Jim Sweeney, Corey Campen, Dean**  
23 **Wilson, Diana VanDerBeek, Collin Johnson,**  
24 **Tiffany Baxter, Sheree Drummer, Julie**  
25 **Torreri. I believe that is the list.**

Page 19

1 Q. Diana VanDerBeek was in 2017, and is today,  
2 the nursing director at Sherburne County?  
3 **A. Correct.**  
4 Q. And I assume that some of these nursing  
5 directors might cover more than one jail for  
6 you?  
7 **A. Correct.**  
8 Q. But Diana VanDerBeek is limited just to  
9 Sherburne County?  
10 **A. Correct.**  
11 Q. Is that your largest jail that you service at  
12 MENd?  
13 **A. At the present time, no.**  
14 Q. Who would be larger?  
15 **A. Racine County Jail. It can depend on the**  
16 **month but in general Racine County Jail is**  
17 **slightly larger.**  
18 Q. Based primarily upon federal inmates?  
19 **A. On average daily population.**  
20 Q. Is that influenced by federal inmates?  
21 **A. At Racine?**  
22 Q. Yes.  
23 **A. No.**  
24 Q. And your ownership structure in terms of  
25 Dr. Todd Leonard Consulting, LLC being the

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1 only member of MENd -- actually, let me take  
2 a step back.  
3 MENd Correctional Care, PLLC, is that  
4 the same entity that provides correctional  
5 care to all the facilities that MENd provides  
6 work for including those outside of  
7 Minnesota?  
8 **A. Correct.**  
9 Q. Do you have -- does Todd Leonard Consulting,  
10 LLC have ownership in any other correctional  
11 entities?  
12 **A. No.**  
13 Q. Does MENd have any ownership in any other  
14 correctional entities?  
15 **A. No.**  
16 Q. Do you have any sort of board for MENd?  
17 **A. No. I mean, we have annual meetings with my**  
18 **legal counsel at Fredrikson and Byron but we**  
19 **don't have a formal board at this time.**  
20 Q. Who is your legal counsel at Fredrikson?  
21 **A. It's a team but it's led by Eric Madson.**  
22 Q. And so neither of those -- in terms of  
23 ownership of copyrights, that all belongs to  
24 MENd Correctional Care, PLLC?  
25 **A. Correct.**

|   |  |
|---|--|
| <p style="text-align: right;">Page 21</p> <p>1 Q. And does MEnD Correctional Care, PLLC own any<br/>2 patents?<br/>3 <b>A. No.</b><br/>4 Q. Any trademarks?<br/>5 <b>A. I don't believe so.</b><br/>6 Q. Does MEnD Correctional Care copyright<br/>7 anything other than its policy and procedure<br/>8 manual?<br/>9 <b>A. And certain forms.</b><br/>10 Q. But there is no outside advisory board for<br/>11 MEnD?<br/>12 <b>A. No.</b><br/>13 Q. Let me just hand this to you, let you keep<br/>14 this so we don't have to keep handing it back<br/>15 and forth.<br/>16 <b>A. Fair enough.</b><br/>17 Q. If you could turn to Exhibit 26, please.<br/>18 <b>A. Okay.</b><br/>19 Q. Now, you are prepared today to provide<br/>20 testimony regarding topic number two, MEnD<br/>21 supervising and reporting hierarchies?<br/>22 <b>A. Correct.</b><br/>23 Q. And does Exhibit 26 accurately reflect those<br/>24 supervising and reporting hierarchies?<br/>25 <b>A. This does from the past. This has changed</b></p>  | <p style="text-align: right;">Page 23</p> <p>1 <b>A. Dr. Steve Scurr.</b><br/>2 Q. How do you spell his last name?<br/>3 <b>A. S-C-U-R-R.</b><br/>4 Q. Did you have a medical doctor employed in<br/>5 Wisconsin?<br/>6 <b>A. No. We had our medical provider team that we</b><br/>7 <b>use so --</b><br/>8 Q. Which would have been either nurse<br/>9 practitioners or PAs?<br/>10 <b>A. Correct.</b><br/>11 Q. And then did you provide care in Illinois at<br/>12 some point as well?<br/>13 <b>A. We began providing health care in Rock Island</b><br/>14 <b>County Jail in Illinois, and that officially</b><br/>15 <b>was January 1st of 2018.</b><br/>16 Q. Are you still providing that care?<br/>17 <b>A. Correct.</b><br/>18 Q. Is that the only facility in Illinois?<br/>19 <b>A. Correct.</b><br/>20 Q. And is there a medical doctor that you<br/>21 subcontract with in Illinois?<br/>22 <b>A. There is a physician assistant.</b><br/>23 Q. So in Minnesota from January 1, 2016, through<br/>24 December 31, 2017, you would have been the<br/>25 only medical doctor providing service on</p>  |
| <p style="text-align: right;">Page 22</p> <p>1 <b>since then.</b><br/>2 Q. Would this have been the correct<br/>3 organizational chart from January 1, 2016,<br/>4 through December 31, 2017?<br/>5 <b>A. Partially.</b><br/>6 Q. Okay. So when would --<br/>7 <b>A. Oh, I'm sorry. It is correct. I apologize.</b><br/>8 <b>It was just hard to read and I didn't spot</b><br/>9 <b>the training director position here so this</b><br/>10 <b>is correct from that time period.</b><br/>11 Q. And president and chief medical officer, that<br/>12 would be you?<br/>13 <b>A. Correct.</b><br/>14 Q. And medical providers, would those<br/>15 predominantly be nurse practitioners?<br/>16 <b>A. It would be medical doctor, physician</b><br/>17 <b>assistant, and nurse practitioners.</b><br/>18 Q. From January 1, 2016, through December 31,<br/>19 2017, were there medical doctors other than<br/>20 yourself employed by MEnD?<br/>21 <b>A. Subcontracted by MEnD, yes.</b><br/>22 Q. In Minnesota?<br/>23 <b>A. In Iowa.</b><br/>24 Q. And who is your subcontractor in Iowa that's<br/>25 a medical doctor?</p> | <p style="text-align: right;">Page 24</p> <p>1 behalf of MEnD in Minnesota?<br/>2 <b>A. I don't view it that way. I view it as we</b><br/>3 <b>have a team of medical providers, all are</b><br/>4 <b>independently licensed and able to provide</b><br/>5 <b>care. So I guess I don't categorize it that</b><br/>6 <b>way.</b><br/>7 Q. Well, medical doctor is a very distinct term,<br/>8 correct?<br/>9 <b>A. It's an individual term of a medical</b><br/>10 <b>provider, certainly.</b><br/>11 Q. Well, an MD is a degree you had to obtain?<br/>12 <b>A. Correct.</b><br/>13 Q. And a nurse practitioner can't call herself<br/>14 an MD?<br/>15 <b>A. No. She can call herself a nurse</b><br/>16 <b>practitioner and she's able to independently</b><br/>17 <b>provide care just as you would if you went to</b><br/>18 <b>your local family medicine clinic. Most</b><br/>19 <b>people often see nurse practitioners,</b><br/>20 <b>physician assistants.</b><br/>21 Q. So I understand how you are answering my<br/>22 question, but I want to make sure I get an<br/>23 answer to my question. You were the only<br/>24 medical doctor providing service on behalf of<br/>25 MEnD in Minnesota from January 1, 2016,</p> |



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1 through December 31, 2017?

2 **A. With that particular title, correct.**

3 Q. Did you attempt to hire any medical doctors

4 to work on behalf of MEnD between January 1,

5 2016, and December 31, 2017?

6 **A. I don't recall specific dates but we have**

7 **been recruiting the corporate medical**

8 **director, which would be another medical**

9 **doctor, a physician, to work with us. I just**

10 **don't recall when those efforts began.**

11 Q. With respect to medical providers at

12 individual jails, though, your job postings

13 have not been for the hiring of medical

14 doctors, have they?

15 **A. I don't recall. I know that we've had**

16 **advertisements, or whatever you would call**

17 **it, posted that have involved physicians**

18 **assistants and nurse practitioners, I just**

19 **don't recall if we've had postings that have**

20 **involved medical doctors or not.**

21 Q. Do you get involved in the interviewing

22 process on behalf of MEnD for the medical

23 providers?

24 **A. Yes.**

25 Q. Are you aware of personally interviewing a

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1 medical doctor for the position of medical

2 provider at any jail in Minnesota?

3 **A. I don't recall if I've interviewed anyone for**

4 **that particular position or not. I have**

5 **interviewed for a corporate medical director,**

6 **but I don't recall if I've interviewed a**

7 **medical doctor for any other position or not.**

8 Q. Has a medical doctor, other than yourself --

9 and let me take a step back.

10 Are you an employee of MEnD as well?

11 **A. I don't take my salary from MEnD Correctional**

12 **Care, I take it from Dr. Todd Leonard**

13 **Consulting. But I am, you know, an employee**

14 **of the company in that spirit so --**

15 Q. Has MEnD ever employed, not subcontracted

16 with, ever employed another medical doctor

17 other than yourself?

18 **A. That particular title? No.**

19 Q. And why is it that MEnD does not employ any

20 other medical doctors other than yourself?

21 **A. It's very standard in our industry to use**

22 **physicians assistants and nurse practitioners**

23 **in the way that we do. Other than that,**

24 **there is no particular reason. I will say,**

25 **though, that corporate medical director**

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1 **position that we're recruiting for now, that**

2 **would need to be a physician medical doctor,**

3 **that would have to be a requirement.**

4 Q. What is your understanding of why it is in

5 your field that those positions are typically

6 filled by nurse practitioners and PAs as

7 opposed to medical doctors?

8 **A. I think there is multiple factors. There is**

9 **more of a labor pool of those positions, they**

10 **are effective positions that provide good**

11 **care, they are very cost effective, I think**

12 **they've been successful over a track record**

13 **of years for multiple companies in this**

14 **industry, it's industry standard so --**

15 Q. You would expect that you'd have to pay a

16 medical doctor more than a nurse practitioner

17 or a PA to fill those roles?

18 **A. I would assume so.**

19 Q. Turn back to the deposition notice.

20 **A. Okay.**

21 Q. And, actually, let me just ask you this

22 first, did you review this organizational

23 chart, Exhibit 26, in preparation for today's

24 deposition?

25 **A. I did.**

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1 Q. Were there any other documents that you

2 reviewed in preparation for providing

3 testimony regarding the organization

4 structure that you can recall?

5 **A. I don't recall specific documents offhand.**

6 **There may have been certain documents that**

7 **pertain to this, I just don't recall**

8 **specifics. I'm not certain.**

9 Q. For topic number three, for the time period

10 of January 1, 2016, through December 31,

11 2017, we had asked for a witness to be

12 provided to provide testimony regarding

13 MEnD's practices, policies, protocols,

14 training, and the like, regarding what

15 medical care nurses and health technicians

16 can provide to patients without approval from

17 a medical provider or supervisor, and

18 information on how and when the nurses and

19 health technicians at Sherburne County Jail

20 obtain medical provider or other supervisor

21 approval. Are you prepared to provide

22 testimony regarding topic number three?

23 **A. I am.**

24 Q. Are there documents that you reviewed in

25 preparation for providing testimony regarding

| Page 29   | Page 31  |
|---|--|
| <p>1 topic number three?</p> <p>2 <b>A. I reviewed policies and protocols, although I</b></p> <p>3 <b>do that frequently. I reviewed some of our</b></p> <p>4 <b>training curriculum and documents. This is</b></p> <p>5 <b>not an exhaustive list, it's off the top of</b></p> <p>6 <b>my head. I reviewed some of the staff</b></p> <p>7 <b>meeting agendas from Sherburne County Jail.</b></p> <p>8 <b>Those are the ones off the top of my head</b></p> <p>9 <b>that I can recall.</b></p> <p>10 Q. And with you serving as the president and</p> <p>11 chief medical officer, what do your duties</p> <p>12 consist of with respect specifically to</p> <p>13 Sherburne County?</p> <p>14 <b>A. It's multifold. This will not be an</b></p> <p>15 <b>exhaustive list, this will be off the top of</b></p> <p>16 <b>my head. I supervise the primary medical</b></p> <p>17 <b>provider there, I provide consultation and</b></p> <p>18 <b>discussion and direction to any staff who</b></p> <p>19 <b>asks for it and needs it, I frequently talk</b></p> <p>20 <b>with my primary medical provider there, I</b></p> <p>21 <b>have conversations and meetings with</b></p> <p>22 <b>correctional staff, jail administration,</b></p> <p>23 <b>Sherburne County sheriff, I've met with</b></p> <p>24 <b>Sherburne County judges, public defenders,</b></p> <p>25 <b>I've assisted in training activities over</b></p> | <p>1 <b>primary medical provider there. That's my</b></p> <p>2 <b>direct supervision in that capacity.</b></p> <p>3 Q. And that was the case in 2016 and 2017?</p> <p>4 <b>A. Correct.</b></p> <p>5 Q. And in 2017, particularly in October of 2017,</p> <p>6 Janell Hussain was the medical provider</p> <p>7 there?</p> <p>8 <b>A. The primary medical provider there.</b></p> <p>9 Q. And she was a nurse practitioner?</p> <p>10 <b>A. Correct.</b></p> <p>11 Q. And she required supervision by you as a</p> <p>12 medical doctor; is that correct?</p> <p>13 <b>A. You are required to have a collaborative</b></p> <p>14 <b>agreement, but she's able to, in the scope of</b></p> <p>15 <b>her license, to work independently.</b></p> <p>16 Q. But you had a collaborative agreement with</p> <p>17 her?</p> <p>18 <b>A. Correct.</b></p> <p>19 Q. So that means she was ultimately operating</p> <p>20 under your license and supervision at</p> <p>21 Sherburne County?</p> <p>22 <b>A. She was operating independently. What those</b></p> <p>23 <b>agreements are designed to say is if there is</b></p> <p>24 <b>a difference of opinion in the way a case,</b></p> <p>25 <b>that she agrees that she'll defer to me if we</b></p>  |
| Page 30   | Page 32  |
| <p>1 time, I've provided direct medical care to</p> <p>2 patients there, I've had meetings with a</p> <p>3 pharmaceutical vendor. That's what I can</p> <p>4 think of off the top of my head.</p> <p>5 Q. You are, as the president and chief medical</p> <p>6 officer, you are the final policy making</p> <p>7 authority there?</p> <p>8 <b>A. Yeah. I mean, everything that we do when it</b></p> <p>9 <b>comes to crafting, honing, fine tuning</b></p> <p>10 <b>policies, protocols, procedures, everything,</b></p> <p>11 <b>it's very much a team effort. I get input</b></p> <p>12 <b>and advice and recommendations from all stake</b></p> <p>13 <b>holders. At the end of the day I'm the veto</b></p> <p>14 <b>authority. But it's always been a team</b></p> <p>15 <b>effort from day one.</b></p> <p>16 Q. But as the veto authority, the ultimate</p> <p>17 responsibility and authority rests with you</p> <p>18 to either approve or deny the enforcement of</p> <p>19 policy?</p> <p>20 <b>A. I approve policy and protocols and the</b></p> <p>21 <b>enforcement of those is the responsibility of</b></p> <p>22 <b>all of us in supervisory roles.</b></p> <p>23 Q. And you are in a supervisory role as a</p> <p>24 medical doctor at the Sherburne County Jail?</p> <p>25 <b>A. I'm in a supervisory role directly with my</b></p>   | <p>1 <b>have a disagreement, that sort of thing.</b></p> <p>2 <b>There is more to those agreements than that</b></p> <p>3 <b>but --</b></p> <p>4 Q. She would not have been able to operate at</p> <p>5 Sherburne County independently without that</p> <p>6 collaborative agreement with you, correct?</p> <p>7 <b>A. She needs to have a physician that is</b></p> <p>8 <b>partnered with her. So she can operate day</b></p> <p>9 <b>to day independently, but at the end of the</b></p> <p>10 <b>day she does need to have that partnership.</b></p> <p>11 Q. That was always you at the Sherburne County</p> <p>12 Jail?</p> <p>13 <b>A. With Janell Hussain, correct.</b></p> <p>14 Q. And what would you do to supervise Janell</p> <p>15 Hussain?</p> <p>16 <b>A. Oh, goodness. I would be largely involved in</b></p> <p>17 <b>her training, I would be involved in frequent</b></p> <p>18 <b>consultation and discussion of cases, I would</b></p> <p>19 <b>see particular patients with her if requested</b></p> <p>20 <b>or necessary, I would give her frequent</b></p> <p>21 <b>feedback and constructive criticism. That's</b></p> <p>22 <b>just off the top of my head.</b></p> <p>23 Q. Would you review her patient files on a</p> <p>24 regular basis?</p> <p>25 <b>A. I would do random chart reviews, and then we</b></p> |

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1     **also had an external physician do periodic**  
2     **chart reviews as well.**  
3 Q. Was that someone employed by MENd or  
4     Sherburne County?  
5 A. **Neither.**  
6 Q. It was a subcontractor?  
7 A. **It was a medical doctor, a physician, from I**  
8     **believe he's with North Memorial system that**  
9     **would do formal reviews as well.**  
10 Q. Was that physician retained by you or  
11     retained by Sherburne County?  
12 A. **He's paid by Sherburne County Jail.**  
13 Q. If MENd is providing care there, why would  
14     that independent physician need to come and  
15     do reviews as well?  
16 A. **He didn't need to, we chose to.**  
17 Q. You did, MENd was involved in that?  
18 A. **A collaborative decision with Sherburne**  
19     **County Jail administration and the sheriff.**  
20 Q. Who is that physician?  
21 A. **Which physician?**  
22 Q. The physician that would come and review the  
23     files independently?  
24 A. **Oh, his name?**  
25 Q. Yes.

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1 A. **Steve Nerheim.**  
2 Q. How often would he review files?  
3 A. **At a minimum every six months.**  
4 Q. And how often would you go to Sherburne  
5     County to personally review files?  
6 A. **It varied. It was a minimum of every three**  
7     **months I would do random reviews. It just**  
8     **varied.**  
9 Q. And you would personally go to Sherburne  
10     County to do those reviews?  
11 A. **It could be either in person or reviewing the**  
12     **EMR system online.**  
13 Q. Electronic medical record?  
14 A. **Correct. It could be either/or.**  
15 Q. How often in 2017 were you providing direct  
16     medical care to patients at the Sherburne  
17     County Jail?  
18 A. **I don't know if I could give you an accurate**  
19     **answer from back then.**  
20 Q. Can you say for a fact that in the year 2017  
21     you went and provided direct medical care?  
22 A. **Yes.**  
23 Q. Would you review and approve medical records  
24     at the Sherburne County Jail in 2017?  
25 A. **I would have to know what you mean by medical**

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1     **records.**  
2 Q. On the eMD system there are medical records  
3     that reflect that they were supervised by  
4     you, Dr. Leonard, so were you actually  
5     supervising and reviewing and approving chart  
6     notes?  
7 A. **At times.**  
8 Q. And would that be more likely if you were on  
9     call or was it random?  
10 A. **No, it would have been if I was on site or**  
11     **cross covering.**  
12 Q. And if there was testimony that during that  
13     period of time that at most you might have  
14     been to the Sherburne County Jail quarterly,  
15     would you disagree with that testimony?  
16 A. **I would disagree with that testimony.**  
17 Q. So you believe you were there more than  
18     quarterly in 2017?  
19 A. **Yes.**  
20 Q. Seeing patients or engaging in other  
21     activities?  
22 A. **All of the above.**  
23 Q. Now, you have a policy and procedure manual  
24     that was put in place -- well, that was in  
25     place in 2017 at the Sherburne County Jail?

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1 A. **Correct.**  
2     **MR. STORMS:** Mark this as 104,  
3     please.  
4     (Exhibit Number 104 was  
5     marked for identification.)  
6 **BY MR. STORMS:**  
7 Q. I'm going to hand you what's been marked as  
8     Exhibit 104. Does this reflect the title  
9     page of your policy and procedure manual that  
10     would have been in place in 2017?  
11 A. **This would have been the title page for the**  
12     **policy manual.**  
13 Q. And that shows you signing off as the  
14     responsible health authority?  
15 A. **Correct.**  
16 Q. And Michelle Skroch signed --  
17 A. **Skroch.**  
18 Q. Michelle Skroch signs off as director of  
19     nursing?  
20 A. **Correct.**  
21 Q. And the second page reflects an index of the  
22     policies?  
23 A. **Correct.**  
24 Q. Were there other -- aside from what was in  
25     this policy and practice manual, were there

| Page 37  | Page 39   |
|--|---|
| <p>1 other written policies in place for MEN D at</p> <p>2 the Sherburne County Jail aside from this</p> <p>3 manual?</p> <p>4 <b>A. Written policies, no.</b></p> <p>5 Q. Would this policy reflect all standing orders</p> <p>6 that would have been in place at the</p> <p>7 Sherburne County Jail in 2017?</p> <p>8 <b>A. I'm not sure what you mean by standing orders</b></p> <p>9 <b>but I don't believe so.</b></p> <p>10 Q. You don't believe that this would reflect all</p> <p>11 standing orders?</p> <p>12 <b>A. The policy manual?</b></p> <p>13 Q. Yes.</p> <p>14 <b>A. No.</b></p> <p>15 Q. Do you know what a standing order is?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. What is your understanding of a standing</p> <p>18 order?</p> <p>19 <b>A. My understanding of a standing order would be</b></p> <p>20 <b>an order that -- I'll give you an example.</b></p> <p>21 <b>There are treatment centers like Vineland</b></p> <p>22 <b>Treatment Center and they have a list of</b></p> <p>23 <b>standing orders that any resident or</b></p> <p>24 <b>treatment center can have without need for</b></p> <p>25 <b>encounters or of the like. That's my</b></p>                     | <p>1 protocol manual, are there any other specific</p> <p>2 writings created by MEN D that has the force</p> <p>3 of a policy or protocol or practice at MEN D?</p> <p>4 <b>A. Oh, my goodness, I don't know how to answer</b></p> <p>5 <b>that. I apologize. I'm not sure how to</b></p> <p>6 <b>answer that.</b></p> <p>7 Q. Well, do you issue any other manuals?</p> <p>8 <b>A. No other policy or protocol manuals. We have</b></p> <p>9 <b>our trainings that we provide that give</b></p> <p>10 <b>direction, so I would consider that a</b></p> <p>11 <b>writing. We have competencies, those are the</b></p> <p>12 <b>other things off the top of my head that I</b></p> <p>13 <b>can think of that would be writings that</b></p> <p>14 <b>would assist in directing medical staff in</b></p> <p>15 <b>their duties.</b></p> <p>16 Q. What is a competency?</p> <p>17 <b>A. Competency is a part of individual positions</b></p> <p>18 <b>trainings initially on hire, or if ever</b></p> <p>19 <b>needed in the future. It just provides proof</b></p> <p>20 <b>that a person in a particular position has</b></p> <p>21 <b>proven mastery of a certain task or duty or</b></p> <p>22 <b>skill.</b></p> <p>23 Q. So that's more a value, that's not</p> <p>24 necessarily given as a policy or a practice</p> <p>25 or protocol to be followed, am I</p> |
| Page 38  | Page 40   |
| <p>1 <b>definition.</b></p> <p>2 Q. And did you, in 2017, did you personally</p> <p>3 issue standing orders that were in place at</p> <p>4 the Sherburne County Jail?</p> <p>5 <b>A. Standing orders in that definition, no.</b></p> <p>6 Q. Standing orders under some different</p> <p>7 definition?</p> <p>8 <b>A. No. I wouldn't call them standing orders,</b></p> <p>9 <b>that's my point.</b></p> <p>10 Q. What would you call them?</p> <p>11 <b>A. We have conditions specific protocols.</b></p> <p>12 Q. And are those reflected in writing?</p> <p>13 <b>A. They are in the protocol manual.</b></p> <p>14 Q. And the protocol manual is different than the</p> <p>15 policy manual?</p> <p>16 <b>A. Correct.</b></p> <p>17 Q. And are you the final or the responsibility</p> <p>18 authority for the items reflected in the</p> <p>19 protocol manual?</p> <p>20 <b>A. Again, going back to our previous</b></p> <p>21 <b>conversation, I ultimately approved them</b></p> <p>22 <b>along with my director of nursing, but the</b></p> <p>23 <b>crafting and fine tuning of all of those is a</b></p> <p>24 <b>team effort.</b></p> <p>25 Q. So you have the policy manual and the</p> | <p>1 understanding that correctly?</p> <p>2 <b>A. Again, this is difficult to answer because</b></p> <p>3 <b>you have to demonstrate mastery of these</b></p> <p>4 <b>competencies to performing your duties</b></p> <p>5 <b>independently in your position in our</b></p> <p>6 <b>company. So I'm just not sure how to answer</b></p> <p>7 <b>that question.</b></p> <p>8 Q. Are the policy and protocol manuals made</p> <p>9 available for review of the staff at all</p> <p>10 times?</p> <p>11 <b>A. They are always available within each</b></p> <p>12 <b>individual clinic, and most of our nursing</b></p> <p>13 <b>staff have their own copy.</b></p> <p>14 Q. Electronic, hard copy, or both?</p> <p>15 <b>A. It's available both ways.</b></p> <p>16 Q. Is there aside from the policy or protocol</p> <p>17 manuals that are available in hard copy, are</p> <p>18 there other hard copy reference materials</p> <p>19 that are typically available for your staff</p> <p>20 to review in order to assist them in</p> <p>21 performing their duties?</p> <p>22 <b>A. That's a pretty broad question. Is there any</b></p> <p>23 <b>way you can make it more specific for me?</b></p> <p>24 Q. Like do you keep a mini library? For</p> <p>25 example, I have some rule books sitting up</p>  |

|   |   |
|---|---|
| <p style="text-align: right;">Page 41</p> <p>1 above my desk.</p> <p>2 <b>A. There is certain hard copy reference books</b></p> <p>3 <b>and then some people have their own apps.</b></p> <p>4 <b>There is also online references, and</b></p> <p>5 <b>depending on your position you would use some</b></p> <p>6 <b>of those, all of those. So it's a difficult</b></p> <p>7 <b>question to answer, it's very broad.</b></p> <p>8 Q. Who participates in drafting at MEnD the</p> <p>9 policy manual?</p> <p>10 <b>A. Well, anyone that has a stake in the</b></p> <p>11 <b>day-to-day care of our staff can be involved,</b></p> <p>12 <b>and that includes correctional staff, jail</b></p> <p>13 <b>administrators, you name it. And anyone from</b></p> <p>14 <b>our company can provide suggestions,</b></p> <p>15 <b>requests, feedback throughout the year. So</b></p> <p>16 <b>it really is a team effort. And then taking</b></p> <p>17 <b>all of that information and trying to put it</b></p> <p>18 <b>on paper, that's generally the leadership</b></p> <p>19 <b>team that will, you know, sort of put pen to</b></p> <p>20 <b>paper, ink to paper, whatever you want to</b></p> <p>21 <b>call it.</b></p> <p>22 Q. Are you involved in putting pen to paper for</p> <p>23 the policy manual?</p> <p>24 <b>A. Correct.</b></p> <p>25 Q. So you'll make edits yourself?</p> | <p style="text-align: right;">Page 43</p> <p>1 <b>protocols that we use.</b></p> <p>2 Q. So as you sit here today is there one</p> <p>3 particular set of model policies that you</p> <p>4 tend to review that you can name?</p> <p>5 <b>A. Again, it's everything I just listed to you.</b></p> <p>6 Q. Do you review the model policies and</p> <p>7 protocols from the National Commission on</p> <p>8 Correctional Health Care?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. And do you review the Minnesota State</p> <p>11 statutes and regulations?</p> <p>12 <b>A. At times, yes.</b></p> <p>13 Q. In particular the DOT statutes and</p> <p>14 regulations?</p> <p>15 <b>A. Correct.</b></p> <p>16 Q. Are there accreditations that MEnD holds?</p> <p>17 <b>A. As a company?</b></p> <p>18 Q. Yes.</p> <p>19 <b>A. Other than PLLC as a company? I can't think</b></p> <p>20 <b>of any other accreditations that the company</b></p> <p>21 <b>holds.</b></p> <p>22 Q. You assist some of the jails in obtaining</p> <p>23 accreditation?</p> <p>24 <b>A. Our first jail that we've achieved a national</b></p> <p>25 <b>accreditation with is Sherburne County.</b></p> |
| <p style="text-align: right;">Page 42</p> <p>1 <b>A. Correct.</b></p> <p>2 Q. What third party documents, meaning documents</p> <p>3 not created by MEnD, do you review in the</p> <p>4 process of creating the policy or protocol</p> <p>5 manual?</p> <p>6 <b>A. Again, that's a broad question because it can</b></p> <p>7 <b>be from any legitimate source that enters</b></p> <p>8 <b>into my consciousness for providing medical</b></p> <p>9 <b>care. So, I mean --</b></p> <p>10 Q. Well, are there certain standards in</p> <p>11 particular that you review for the providing</p> <p>12 of correctional medical care?</p> <p>13 <b>A. I review all sorts of standards from primary</b></p> <p>14 <b>care in general, American Correctional</b></p> <p>15 <b>Association, immigration standards, National</b></p> <p>16 <b>Commission Correctional Health Care</b></p> <p>17 <b>standards. I review a lot of material, as</b></p> <p>18 <b>does my staff, in trying to, again, hone what</b></p> <p>19 <b>we do.</b></p> <p>20 Q. Are there model policies that you reviewed in</p> <p>21 preparation for drafting your policy and</p> <p>22 procedure policy manual?</p> <p>23 <b>A. It would be the same list. It would be</b></p> <p>24 <b>whatever -- whatever we find that we feel is</b></p> <p>25 <b>helpful in drafting our ultimate policies and</b></p>              | <p style="text-align: right;">Page 44</p> <p>1 Q. When did you obtain that?</p> <p>2 <b>A. I believe that was 2018.</b></p> <p>3 Q. What was the accreditation?</p> <p>4 <b>A. American Correctional Association.</b></p> <p>5 Q. And you have that accreditation today?</p> <p>6 <b>A. Correct.</b></p> <p>7 Q. Or Sherburne County does?</p> <p>8 <b>A. I probably should have delineated that.</b></p> <p>9 <b>Sorry.</b></p> <p>10 Q. So should I have. Okay. Is that the only</p> <p>11 national accreditation that's been obtained</p> <p>12 by a jail where MEnD provides the care, that</p> <p>13 you know of?</p> <p>14 <b>A. Correct.</b></p> <p>15 Q. And you assisted Sherburne County in</p> <p>16 obtaining that accreditation?</p> <p>17 <b>A. Correct.</b></p> <p>18 Q. And does that accreditation need to be</p> <p>19 renewed?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. How often?</p> <p>22 <b>A. I believe it's every three years, but I'm not</b></p> <p>23 <b>certain.</b></p> <p>24 Q. Have you assisted any jail in attempting to</p> <p>25 gain accreditation where the jail was</p>   |

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1 unsuccessful in obtaining the accreditation?

2 **A. No.**

3 Q. In your supervisory capacity as a medical

4 doctor with respect to Janell Hussain, do you

5 review the State statutes with respect to

6 scope of practice?

7 **A. I can't remember the last time I've reviewed**

8 **them but I'm sure I have.**

9 Q. What is your understanding of the scope of

10 practice differences between yourself and

11 Janell Hussain?

12 **A. Again, that's a very broad question. From**

13 **day in day out activities of providing direct**

14 **patient care, it's minimal at best.**

15 Q. Any specific differences in the legal scope

16 of practice that you are aware of between

17 yourself and Janell Hussain?

18 **MR. NOVAK:** I object to the form,

19 calls for a legal conclusion. You can

20 go ahead.

21 **THE WITNESS:** Off the top of my

22 head I don't have those committed to

23 memory. There are certain endeavors

24 that I can think of where it requires a

25 physician's statement, such as an

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1 examiner's statement. I'm just not

2 recalling off the top of my head.

3 **BY MR. STORMS:**

4 Q. What is an examiner's statement?

5 **A. It's basically when you have a patient that**

6 **you have to put an emergency hold on.**

7 Q. And you employ nurse practitioners but also

8 employ registered nurses?

9 **A. Correct.**

10 Q. What is your understanding -- and do you

11 supervise registered nurses?

12 **A. I don't directly supervise them.**

13 Q. Are they in some fashion supervised by you --

14 or I'm sorry. Do they in some fashion need

15 to be supervised by you in order to provide

16 the work at Sherburne County Jail?

17 **A. I'm not required to. But I am -- I'm always**

18 **available to assist our leadership staff**

19 **wherever necessary wherever I need to be**

20 **involved. But day in and day out, typical**

21 **supervision is provided by our leadership**

22 **team.**

23 Q. The nurses that provide work at Sherburne

24 County would not be able to work at Sherburne

25 County if there were not a medical doctor

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1 whose license was attached to providing the

2 service at -- or medical service at that

3 jail?

4 **A. Yeah. That's true of any medical facility.**

5 **So we're no different.**

6 Q. So every medical facility that MENd provides

7 treatment to in Minnesota relies upon your

8 license?

9 **A. Technically, yes. You have to have that.**

10 **Operationally it's much more extensive than**

11 **that.**

12 Q. Are all of the inmates at each of the jails

13 that MENd provides services to technically

14 your patient?

15 **A. Do you mind repeating that? I'm sorry.**

16 Q. Are all of the inmates or detainees at all of

17 the jails that MENd provides services to, are

18 they all technically your patients?

19 **A. No. They are all of our patients. All of**

20 **our medical providers have their own**

21 **patients. All of our medical providers are**

22 **primarily assigned to particular facilities.**

23 **And so that's how it's broken down.**

24 Q. So in 2017 were the detainees at Sherburne

25 County Jail -- or sorry. In 2017 were the

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1 detainees and inmates at Sherburne County

2 Jail your patients?

3 **A. They were not my direct patients. They were**

4 **primarily Janell Hussain's patients. But**

5 **again, whenever medical providers or myself**

6 **from our team were needed to assist her, then**

7 **we would. So primarily she is assigned to**

8 **that facility.**

9 Q. But Janell Hussain couldn't have those

10 patients were it not for the collaborative

11 agreement with you?

12 **A. Yep.**

13 **MR. NOVAK:** I object to form.

14 **THE WITNESS:** She needs to have

15 that relationship with me to provide her

16 independent care that she provides each

17 day.

18 **BY MR. STORMS:**

19 Q. But as you understand it, the care that she's

20 providing each day, those individuals she's

21 providing care to are not necessarily your

22 patients?

23 **A. They are not my direct patients, they are**

24 **assigned to her. Just like, again, any other**

25 **clinic, clinical practice you would have,**

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1     **where a nurse practitioner or a physicians**  
2     **assistant works in that capacity.**  
3     Q. I understand you are saying direct patients,  
4     are they indirectly your patients?  
5     A. **No. I'm literally saying they are directly**  
6     **assigned to her and I have my roles and**  
7     **responsibilities and she has hers.**  
8     Q. Okay. So they are not your patients?  
9     A. **I guess I don't know how to answer that. I**  
10    **would say all the patients in Sherburne**  
11    **County are her patients, I just have my roles**  
12    **and responsibilities in assuring that her and**  
13    **I have the proper relationship and do my due**  
14    **diligence and duties working with her.**  
15    Q. I understand that. I would understand this  
16    to be a yes or no question. Either those  
17    inmates she's working with are your patients  
18    or they are not at Sherburne County Jail.  
19       **MR. NOVAK:** Is there a question  
20    pending?  
21    **BY MR. STORMS:**  
22    Q. It's a yes or -- I'm looking for an answer to  
23    my question. Are those patients at Sherburne  
24    County Jail or not?  
25       **MR. NOVAK:** Asked and answered. Go

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1     ahead.  
2       **THE WITNESS:** I'm not sure how to  
3     answer that because I'm just not sure  
4     what you are trying to ask me in regards  
5     to those patients. I mean --  
6    **BY MR. STORMS:**  
7    Q. I'm asking if they are your patients?  
8    A. **I don't know how to answer that question.**  
9    **I'm not primarily responsible for their**  
10   **day-to-day care, she is. I'm responsible for**  
11   **my duties as her supervisor. Again, just**  
12   **like you would have on any other facility**  
13   **where a nurse practitioner provided care.**  
14   Q. As a lawyer I have to know who my clients  
15   are, right? I can tell you who my clients  
16   are. So are you telling me you don't know if  
17   these are your patients or not?  
18       **MR. NOVAK:** Asked and answered. I  
19   counted about four.  
20       **THE WITNESS:** I guess at the end of  
21   the day I would look at it this way,  
22   these patients are assigned to MEnD  
23   Correctional Care. So in some essence  
24   they are my patients as well. But the  
25   primary responsibility of caring for

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1     these patients would lie -- in Sherburne  
2     County would lie with Janell Hussain.  
3     With obviously assistance and any help  
4     that she required to do so.  
5    **BY MR. STORMS:**  
6    Q. Now, does that primary responsibility rest  
7    with her when she's off duty?  
8    A. **When she's off duty it depends on when you**  
9    **are talking about. So I would need to know**  
10   **more of what you mean by that.**  
11   Q. So, for example, if she's off duty and not on  
12   call, somebody else is the on-call provider?  
13   A. **Correct. Then there is on-call rotation.**  
14   **And whoever is assigned for that period of**  
15   **time on call is responsible to assist our**  
16   **team in caring for those patients. And**  
17   **that's the assistance I was talking about.**  
18   **They are primarily assigned to her, but when**  
19   **she needs assistance from our team that's**  
20   **what we provide.**  
21   Q. And now you have nurse practitioners but you  
22   also have registered nurses who work under  
23   your license at MEnD?  
24   A. **They ultimately work under my license in**  
25   **that, as we discussed earlier, my license is**

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1     **required to have these facilities**  
2     **operational, they work under the supervision**  
3     **of their team.**  
4    Q. What is the difference in the scope of  
5    practice between a nurse and a nurse  
6    practitioner?  
7    A. **That's a broad question. Is there something**  
8    **specific you are asking or looking for?**  
9    Q. Yeah. Can you tell me specifically what  
10   things a nurse practitioner can do that a  
11   nurse, a registered nurse, cannot?  
12   A. **I can give you a couple of examples.**  
13   Q. Please.  
14   A. **Nurses can't prescribe medication on their**  
15   **own, nurses have to stay within the scope of**  
16   **their care or have a protocol to use or a**  
17   **known procedure to use.**  
18   Q. What does that mean, stay within the scope of  
19   their care?  
20   A. **Just in the scope of their licensure as a**  
21   **nurse.**  
22   Q. And aside from the prescription of  
23   medication, is there any way that scope  
24   differs from a nurse practitioner?  
25   A. **Other than what? I'm sorry.**

| Page 53  | Page 55  |
|--|--|
| <p>1 Q. The ability to prescribe medication.</p> <p>2 <b>A. They are not able to formally diagnose. I</b></p> <p>3 <b>mean, those are the two biggest factors. Are</b></p> <p>4 <b>there other things? Certainly. I mean,</b></p> <p>5 <b>those are the first two examples off the top</b></p> <p>6 <b>of my head.</b></p> <p>7 Q. In terms of treating patients, there is a</p> <p>8 difference between nurse interventions and</p> <p>9 medical interventions?</p> <p>10 <b>A. I don't characterize them that way. Medical</b></p> <p>11 <b>interventions is a broad term so there is</b></p> <p>12 <b>plenty of nursing interventions that, in my</b></p> <p>13 <b>mind, would be categorized as medical</b></p> <p>14 <b>interventions.</b></p> <p>15 Q. Have you ever reviewed the Minnesota State</p> <p>16 statutes with respect to scope of practice?</p> <p>17 <b>A. Again, I have. I can't tell you when the</b></p> <p>18 <b>last time I would have done that would have</b></p> <p>19 <b>been and in what area I would have reviewed.</b></p> <p>20 Q. Is that not part of something that you review</p> <p>21 annually when you are doing a policy and</p> <p>22 procedure manual?</p> <p>23 <b>A. There is no mandate that says we have to</b></p> <p>24 <b>review those annually. It's ongoing when I</b></p> <p>25 <b>get notifications of changes, things of that</b></p> | <p>1 PCP?</p> <p>2 <b>A. Specifically to PCP? No.</b></p> <p>3 Q. Is the training at MENd that PCP is a drug</p> <p>4 that individuals do not suffer from drug</p> <p>5 withdrawal on?</p> <p>6 <b>A. I wouldn't categorize it that way.</b></p> <p>7 Q. Should a nurse or a medical provider be</p> <p>8 concerned about someone who tested positive</p> <p>9 for PCP with respect to drug withdrawal?</p> <p>10 <b>MR. NOVAK:</b> I object to the form,</p> <p>11 incomplete hypothetical.</p> <p>12 <b>THE WITNESS:</b> It would have to</p> <p>13 depend on the patient but in general PCP</p> <p>14 withdrawal is a minor event on the scope</p> <p>15 of drugs that we deal with that a person</p> <p>16 could suffer from withdrawal.</p> <p>17 <b>BY MR. STORMS:</b></p> <p>18 Q. The effects of PCP can be significant?</p> <p>19 <b>MR. NOVAK:</b> Form.</p> <p>20 <b>THE WITNESS:</b> They can be. It just</p> <p>21 depends on the patient and the usage and</p> <p>22 situation.</p> <p>23 <b>MR. STORMS:</b> Can we go off the</p> <p>24 record?</p> <p>25 (A break was taken.)</p>  |
| Page 54  | Page 56  |
| <p>1 <b>nature. It's periodic, I can't tell you if</b></p> <p>2 <b>it's annually.</b></p> <p>3 Q. Is drug withdrawal a diagnosis?</p> <p>4 <b>A. Drug withdrawal would be a condition, there</b></p> <p>5 <b>is more specific diagnoses that would be</b></p> <p>6 <b>assigned to a condition like that.</b></p> <p>7 Q. So is that a diagnosis or not a diagnosis?</p> <p>8 <b>MR. NOVAK:</b> Objection, asked and</p> <p>9 answered.</p> <p>10 <b>THE WITNESS:</b> It can be but it</p> <p>11 doesn't have to be.</p> <p>12 <b>BY MR. STORMS:</b></p> <p>13 Q. And if a patient is suffering from drug</p> <p>14 withdrawal, is that something that a -- or</p> <p>15 I'm sorry, if the patient is identified as</p> <p>16 having a drug withdrawal, is that something a</p> <p>17 registered nurse can treat on her own without</p> <p>18 supervision by a medical provider?</p> <p>19 <b>A. If she has protocols that allow her to</b></p> <p>20 <b>provide certain services and care, she can</b></p> <p>21 <b>provide within the scope of those protocols.</b></p> <p>22 Q. And MENd has protocols that address drug</p> <p>23 withdrawal?</p> <p>24 <b>A. Correct.</b></p> <p>25 Q. Does MENd have a specific drug protocol on</p>  | <p>1 <b>BY MR. STORMS:</b></p> <p>2 Q. So with respect to withdrawal, drug</p> <p>3 withdrawal, as to the nurses, the nurses have</p> <p>4 a protocol that's akin to a standing order</p> <p>5 that they can refer to?</p> <p>6 <b>A. It's not a standing order but they do have a</b></p> <p>7 <b>protocol that they can use for care of those</b></p> <p>8 <b>patients.</b></p> <p>9 Q. What is it that technically distinguishes the</p> <p>10 protocol from a standing order?</p> <p>11 <b>A. I mentioned this earlier, my definition of a</b></p> <p>12 <b>standing order is an order that allows a</b></p> <p>13 <b>patient to have whatever treatment is on that</b></p> <p>14 <b>standing order without medical intervention</b></p> <p>15 <b>from anybody. I just don't categorize the</b></p> <p>16 <b>two the same.</b></p> <p>17 Q. But through the protocol is the nurse given</p> <p>18 discretion how to treat a patient suffering</p> <p>19 from drug withdrawal?</p> <p>20 <b>A. They are given parameters on certain tasks</b></p> <p>21 <b>and things that they can do. I will tell you</b></p> <p>22 <b>that most of the time if there is a patient</b></p> <p>23 <b>who is exhibiting significant chemical</b></p> <p>24 <b>withdrawal, there will be a medical provider</b></p> <p>25 <b>involved. Not always, but if there is</b></p> |



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1     **significant chemical withdrawal oftentimes a**  
2     **medical provider will be involved.**  
3     Q. But it's the nurse's responsibility to get  
4     that provider involved?  
5     A. **When necessary, correct.**  
6     Q. And the same would be true for suicide risk  
7     assessment protocols?  
8     A. **What would be? I'm sorry.**  
9     Q. So there is a suicide risk assessment  
10    protocol as well in your protocol manual?  
11    A. **Correct.**  
12    Q. And it's contingent upon the nurse to make  
13    the decision about whether or not a medical  
14    provider needs to get involved?  
15    A. **They use the tools that they have at their**  
16    **disposal to direct them in their tasks.**  
17    Q. What are those tools at their disposal?  
18    A. **Well, everything that you see within our**  
19    **protocol, training, forms. They all play a**  
20    **part in that process.**  
21    Q. But the nurses are, with respect to suicide  
22    screening, given discretion with respect to  
23    whether or not to contact the medical  
24    provider unless they meet a certain risk  
25    assessment score; would that be true?

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1     A. **I don't think I'd categorize it that way.**  
2     **They have, again, the protocols and training**  
3     **that show them critical levels in those steps**  
4     **but they have the discretion, even when**  
5     **someone doesn't meet those criteria, they**  
6     **could call whenever they would like if they**  
7     **have any concerns.**  
8     Q. But are they only required to contact a  
9     medical provider if there is a total risk  
10    assessment score that meets 36 points?  
11    A. **No, I mean, there is an entire protocol that**  
12    **lists out what they are supposed to do,**  
13    **that's one of the steps.**  
14    Q. And so it's your understanding that some of  
15    those other protocols require contact of a  
16    medical provider aside from the risk  
17    assessment?  
18    A. **Anyplace within our protocols where it deems**  
19    **a nurse must consult with a medical provider,**  
20    **they should.**  
21       **MR. STORMS:** Will you mark that as  
22       Exhibit 105?  
23       (Exhibit Number 105 was  
24       marked for identification.)  
25

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1     **BY MR. STORMS:**  
2     Q. Just with respect to reviewing your entire  
3     policy and procedure manual, like other  
4     documents we might read, sometimes you use  
5     the word "must", sometime you use the word  
6     "may", right?  
7     A. **Oh, within our manual?**  
8     Q. Correct.  
9     A. **There are times where those two words are**  
10    **both used, correct.**  
11    Q. And "must" means what we would understand it  
12    to mean in terms of plain language, it's  
13    something the employee has to do?  
14    A. **What they are directed to do.**  
15    Q. "May" gives them discretion?  
16    A. **Correct.**  
17    Q. I'm handing you what's been marked as Exhibit  
18    105. Are you familiar with this document?  
19    A. **I am.**  
20    Q. And did you assist in creating this document?  
21    A. **Yes.**  
22    Q. Was there anyone else who assisted you in  
23    creating this document?  
24    A. **I'm sure there was. I'm sure it was a team**  
25    **effort.**

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1     Q. Was this a document that is truly original in  
2     nature or did you use something else as to  
3     base it off of?  
4     A. **It's a highbred of information that we have**  
5     **found and information that we have created.**  
6     Q. And you felt like it was unique enough to  
7     copyright it?  
8     A. **That was our opinion.**  
9     Q. And according to this document, a total of 36  
10    points or more requires intervention; is that  
11    true?  
12    A. **Yeah, it requires at minimum consultation**  
13    **with medical provider.**  
14    Q. Are there any specific documents that you can  
15    identify or documents, policies, practices  
16    that you used or reviewed to help you create  
17    this document?  
18    A. **I can't remember. It's been quite a long**  
19    **time.**  
20    Q. So just to make sure I understand this  
21    clearly, in theory if somebody identified  
22    that they were a plan in progress, that would  
23    make them a high risk 10, correct?  
24    A. **What do you mean by plan in progress?**  
25    Q. For time?

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1 **A. Got it. Correct.**  
2 Q. And they could have, in terms of prior  
3 attempts, they could have multiple serious  
4 attempts and that would also be a 10?  
5 **A. If we're aware of multiple serious attempts,**  
6 **that would give them a 10 score.**  
7 Q. And one of the ways MEN D could be aware of  
8 that is through their own medical record  
9 keeping?  
10 **A. It could be any source. If we are aware of**  
11 **multiple serious attempts and we're**  
12 **reasonably certain of that fact, that's where**  
13 **we'd get the information.**  
14 Q. Sure. But one of the things that MEN D does  
15 is maintain medical records for its inmates  
16 or detainees for at least seven years,  
17 correct?  
18 **A. Correct.**  
19 Q. And that's to provide continuity of care?  
20 **A. In part. In part.**  
21 Q. What other reasons?  
22 **A. Regulated that we must.**  
23 Q. You understand that medical records, one of  
24 the purposes of keeping them, is to provide  
25 continuity of care and to have a medical

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1 history?  
2 **A. Oh, certainly.**  
3 Q. And then with respect to depression, someone  
4 could have major depression and hopelessness  
5 and that would be a 10 as well?  
6 **A. Again, if we deemed with reasonable certainty**  
7 **that's what they have, then that's what we'd**  
8 **score them as.**  
9 Q. So in theory someone could have a plan in  
10 progress, multiple serious attempts, and  
11 major depression and hopelessness, but then  
12 be scored a zero on everything else, and this  
13 risk screening form would not require a  
14 mandatory report to a medical provider?  
15 **MR. NOVAK:** I object to the form,  
16 incomplete hypothetical, calls for  
17 speculation. Go ahead.  
18 **THE WITNESS:** Yes, it has to be in  
19 the context of an individual patient.  
20 That hypothetical situation sounds  
21 almost unattainable to me so -- I've  
22 never seen that in medical practice,  
23 somebody with that constellation of  
24 scoring on this form.  
25

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1 **BY MR. STORMS:**  
2 Q. Well, so but on this form, this form only  
3 requires a total of 36 -- or it requires a  
4 total of 36 to mandate an intervention,  
5 correct?  
6 **A. A score of 36 demands intervention, you don't**  
7 **need to have 36 to have intervention with a**  
8 **patient.**  
9 Q. Okay. So if somebody had three high risk  
10 categories like that, even though this form  
11 wouldn't require them, you would expect from  
12 your practice that this patient's care would  
13 be elevated to a provider or someone else?  
14 **MR. NOVAK:** Form, same objections.  
15 **THE WITNESS:** Again, what you  
16 described as a hypothetical situation,  
17 I've never seen. So I would never even  
18 expect to be in that situation in the  
19 first place. So if somebody had a score  
20 less than 36, and the user still had  
21 significant concerns about that patient,  
22 they are absolutely allowed and  
23 encouraged to reach out for any  
24 assistance that they need.  
25

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1 **BY MR. STORMS:**  
2 Q. Where does the number 36 come from?  
3 **A. I don't remember the specifics of the**  
4 **conversation but it was an activity that we**  
5 **undertook years ago with my team of a mental**  
6 **health director just in determining what**  
7 **would be a reasonable score that would still**  
8 **be appropriate and reliable and usable.**  
9 Q. And these are performed by RNs?  
10 **A. They can be used by registered nurses or**  
11 **higher.**  
12 Q. Based upon MEN D's typical practices, are they  
13 typically performed by RNs?  
14 **A. I don't know if I'd use the word typically.**  
15 **But they are often used by registered nurses.**  
16 Q. And an RN is not considered under Minnesota  
17 law to be a qualified mental health provider,  
18 correct?  
19 **A. Correct.**  
20 Q. And with respect to the time that you as a  
21 medical doctor spend in clinic with patients  
22 in Minnesota, it would be fair to  
23 characterize that as 10 percent or less?  
24 **A. Direct face-to-face patient care?**  
25 Q. Yes.

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1 **A. I think that's a fair assessment.**  
2 Q. Are there any counties in Minnesota where you  
3 are thee medical provider for that jail?  
4 **A. The primary medical provider?**  
5 Q. Yes.  
6 **A. No.**  
7 Q. When is the last time you would have been a  
8 primary medical provider for a jail in  
9 Minnesota?  
10 **A. I can't give you an exact answer on that.**  
11 Q. When was the last time you reviewed the  
12 contract with Sherburne County Jail?  
13 **A. In what way do you mean?**  
14 Q. When was the last time you actually reviewed  
15 the formal contract?  
16 **A. Read through it?**  
17 Q. Yes.  
18 **A. I wouldn't know. I don't know. I can't**  
19 **recall.**  
20 Q. I am just going to take it out for you since  
21 this is tabbed separately. I'm going to hand  
22 you what was marked as Sherburne Exhibit  
23 Number 3, starting at Sherburne 1788. Please  
24 take an opportunity to review that.  
25 **A. Is there anything in particular you want me**

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1 **to review of this?**  
2 Q. Well, at first I just want to confirm that  
3 that is the existing contract with Sherburne  
4 County?  
5 **A. This is the most recent written agreement**  
6 **that we have between Sherburne County and**  
7 **MENd.**  
8 Q. And that's from 2014?  
9 **A. Correct.**  
10 Q. And I'd like to turn your attention, you will  
11 see there are these Bates numbers, that's the  
12 little numbers below the box there, where it  
13 says Sherburne 01788?  
14 **A. Okay.**  
15 Q. I'd like to turn your attention to Sherburne  
16 01793.  
17 **A. Okay.**  
18 Q. And please review Section 1.18.1.  
19 **A. Okay. Okay.**  
20 Q. Did you review that provision in preparation  
21 for today's deposition?  
22 **A. I don't know if I recall that specific**  
23 **section.**  
24 Q. Are you aware of this specific section?  
25 **A. I'm aware of it.**

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1 Q. Now, the testimony from Mr. Carr was that  
2 there is not a licensed physician coming to  
3 the facility on a monthly basis. Would you  
4 disagree with that testimony?  
5 **A. Yeah, I can't speak for Pat Carr. I've**  
6 **answered that question already.**  
7 Q. Do you believe you come on a monthly basis?  
8 **A. Correct.**  
9 Q. My understanding of your prior testimony was  
10 that at a minimum once every three months?  
11 **MR. NOVAK:** I object to the form,  
12 misstates the prior testimony.  
13 **THE WITNESS:** So I'm telling you  
14 that I come to Sherburne County Jail  
15 facility on average at least once a  
16 month. That is my testimony.  
17 **BY MR. STORMS:**  
18 Q. And if Janell Hussain provided contrary  
19 testimony, she'd be incorrect as well?  
20 **MR. NOVAK:** I object to the form,  
21 misstates the testimony.  
22 **THE WITNESS:** Again, I won't speak  
23 to her testimony but what I will tell  
24 you is every time I'm in that facility,  
25 I may be working a different person, I

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1 may be working with some people certain  
2 visits, others other visits. And as I  
3 stated before, I work directly with  
4 Janell Hussain on a very frequent basis.  
5 **BY MR. STORMS:**  
6 Q. Just so I'm clear, it's your testimony that  
7 you are physically at the Sherburne County  
8 Jail at least on a monthly basis?  
9 **A. As I've answered, on average I'm there at**  
10 **least once a month.**  
11 Q. So when you say on average, does that mean  
12 you could go three times in January but then  
13 not go again in February and March?  
14 **A. I'm not saying that at all. I'm just saying**  
15 **on average I'm there at least once a month.**  
16 **I wouldn't be able to give you that specific.**  
17 Q. Do you document your visits in any fashion?  
18 **A. In what manner?**  
19 Q. In any manner. Is there any documents we can  
20 look at to confirm your testimony that you  
21 are there on a monthly basis?  
22 **A. I don't know.**  
23 Q. Well, you would be the one making the  
24 documents, correct?  
25 **A. I would need to know what documents you mean,**

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1 that's my problem. I don't know what you  
2 mean by documents so I don't know the answer  
3 to that.  
4 Q. I don't know what you create. So do you  
5 create some document that reflects your  
6 monthly visit to the Sherburne County Jail?  
7 A. I don't have a log sheet of my visits, if  
8 that's what you are asking. I don't have  
9 that.  
10 Q. Do you maintain an Outlook calendar?  
11 A. I have an Outlook calendar but it's not --  
12 it's not accurate to every facility I go to.  
13 It's more of for big events, events that  
14 would be conflicts for other day-to-day  
15 activities, events that people would know  
16 that I'm unavailable, that sort of thing.  
17 But it's not a calendar that shows my every  
18 whereabouts.  
19 Q. Do you create medical records when you go on  
20 your monthly visits to the Sherburne County  
21 Jail?  
22 A. It depends on the visit.  
23 Q. Sometimes you do?  
24 A. Sometimes I do.  
25 Q. If you created a medical record, how would we

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1 know that?  
2 A. It would be in eMDs.  
3 Q. And it would reflect -- there are documents  
4 in eMDs that would reflect you providing  
5 primary care to inmates at Sherburne County  
6 Jail?  
7 A. There would be some, yes.  
8 Q. And that's part of a monthly standard  
9 practice for you?  
10 A. I'm not sure --  
11 Q. Or are you going and providing primary care  
12 to inmates on a monthly basis at Sherburne  
13 County Jail?  
14 A. I could be providing direct face-to-face  
15 care, I could be providing indirect care, I  
16 could be providing consultation to staff on a  
17 very frequent basis. It just depends on the  
18 situation and the case.  
19 Q. And would you go and review chart files  
20 yourself?  
21 A. Yeah. We discussed this earlier, that  
22 periodically I would do random chart reviews  
23 of patients within Sherburne County Jail.  
24 Q. Would you create documents reflecting that  
25 you did those chart reviews?

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1 A. Not typically. Not typically.  
2 Q. So the only way we could prove that would  
3 just be by your word?  
4 A. I don't know the answer to that.  
5 Q. I mean, you are the doctor, you are the one  
6 who makes medical records, not me. So is  
7 there anything other than your word that  
8 would prove that you reviewed a chart of a  
9 patient?  
10 A. I don't know the answer to that.  
11 Q. There is nothing --  
12 A. I know what I have done, I don't know the  
13 answer to that question.  
14 Q. You can't identify anything when you do a  
15 review of a random review of files that you  
16 create on a consistent basis?  
17 A. A file that I create from that review?  
18 Q. Correct.  
19 A. Not off the top of my head.  
20 Q. And have you ever had a conversation with  
21 Commander Carr about whether or not you are  
22 in fact coming on a monthly basis to the  
23 Sherburne County Jail?  
24 A. Not that I can recall.  
25 Q. I'll take that back from you.

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1 MR. NOVAK: What exhibit was that,  
2 Jeff?  
3 MR. STORMS: It was Sherburne  
4 Exhibit Number 3.  
5 MR. NOVAK: Is that part of our  
6 kind of ongoing number we're using?  
7 MR. STORMS: It's outside of it.  
8 MR. NOVAK: It's outside of it.  
9 Okay. That's all I was checking.  
10 BY MR. STORMS:  
11 Q. Now, my understanding -- let's go back. Do  
12 you carry an iPhone or some other portable  
13 electronic device, I assume?  
14 A. I have a cell phone.  
15 Q. And you receive emails on that?  
16 A. I can receive emails on it, sure.  
17 Q. Do you receive emails on it?  
18 A. Sure.  
19 Q. Has that been the case since 2017?  
20 A. I'm assuming so. I can't swear to that but  
21 I'm assuming so.  
22 Q. And you'd receive those emails through your  
23 MENd account?  
24 A. One of them, yes.  
25 Q. Do you have several MENd accounts, email

| Page 73   | Page 75  |
|---|--|
| <p>1 accounts?</p> <p>2 <b>A. No.</b></p> <p>3 Q. Do you have a separate email account for the</p> <p>4 Todd Leonard Consulting?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. What is that email address?</p> <p>7 <b>A. Leonardconsulting@yahoo.com.</b></p> <p>8 Q. And do you use either a laptop or a desktop</p> <p>9 at home?</p> <p>10 <b>A. Oh, at times, sure.</b></p> <p>11 Q. Which is it, a laptop or a desktop?</p> <p>12 <b>A. Laptop.</b></p> <p>13 Q. What kind of laptop?</p> <p>14 <b>A. I currently have a Lenovo.</b></p> <p>15 Q. And how long have you had that for?</p> <p>16 <b>A. A couple of years. I don't know.</b></p> <p>17 Q. Since 2017?</p> <p>18 <b>A. No, I think I got it -- I don't know. I</b></p> <p>19 <b>don't know the answer to that.</b></p> <p>20 Q. What type of device did you have before the</p> <p>21 Lenovo?</p> <p>22 <b>A. I don't recall.</b></p> <p>23 Q. Did you have a different home device?</p> <p>24 <b>A. I had a different laptop.</b></p> <p>25 Q. What did you do with that laptop?</p>  | <p>1 <b>have some performance issue, you can ask</b></p> <p>2 <b>their assistance with it.</b></p> <p>3 Q. So the laptop you had before the Lenovo</p> <p>4 laptop, is that something you would have</p> <p>5 turned over to Marco or would you have just</p> <p>6 thrown it in the garbage?</p> <p>7 <b>A. It wouldn't have been turned over to Marco,</b></p> <p>8 <b>it would have just been discarded in the</b></p> <p>9 <b>appropriate way you discard a laptop.</b></p> <p>10 Q. How do you do that?</p> <p>11 <b>A. It may have been in the garbage, it may have</b></p> <p>12 <b>been through the vendor I purchased it, I</b></p> <p>13 <b>don't recall. I just don't recall.</b></p> <p>14 Q. And you don't know how long ago that would</p> <p>15 have been?</p> <p>16 <b>A. I don't.</b></p> <p>17 Q. And your home laptop, do you receive your</p> <p>18 MENd emails on that laptop as well?</p> <p>19 <b>A. Yes, I can receive emails on that laptop.</b></p> <p>20 Q. And can you access eMDs through that laptop?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And is that the same laptop that you would</p> <p>23 then use at your office or do you have a</p> <p>24 different computer at your office?</p> <p>25 <b>A. I have a desktop at my office.</b></p> |
| Page 74   | Page 76  |
| <p>1 <b>A. It's probably destroyed, garbage.</b></p> <p>2 Q. So you would have just thrown it in the</p> <p>3 garbage?</p> <p>4 <b>A. We would have -- what is the word I'm trying</b></p> <p>5 <b>to look for -- discarded it as one would</b></p> <p>6 <b>normally do.</b></p> <p>7 Q. When you say "we" are you talking about you</p> <p>8 would have discarded that through working</p> <p>9 with MENd or just individually?</p> <p>10 <b>A. I don't even know the answer to that</b></p> <p>11 <b>question. It just would have been the course</b></p> <p>12 <b>of business, day-to-day business.</b></p> <p>13 Q. I understand that. Do you have an IT person</p> <p>14 you work with at MENd?</p> <p>15 <b>A. We don't have an IT person, we work with</b></p> <p>16 <b>Marco.</b></p> <p>17 Q. Is that a company or a person?</p> <p>18 <b>A. A company.</b></p> <p>19 Q. They provide IT services?</p> <p>20 <b>A. Yeah. I mean, they help us in a number of</b></p> <p>21 <b>ways.</b></p> <p>22 Q. Do you give them your laptops to, you know,</p> <p>23 download what you need to have downloaded,</p> <p>24 things like that?</p> <p>25 <b>A. They set them up at the beginning and if you</b></p> | <p>1 Q. And do you know the current brand of your</p> <p>2 desktop?</p> <p>3 <b>A. HP.</b></p> <p>4 Q. How long have you had that desktop for?</p> <p>5 <b>A. I don't know if I can give you a specific</b></p> <p>6 <b>answer but it's less than a year old.</b></p> <p>7 Q. What did you do with the prior desktop?</p> <p>8 <b>A. I don't recall. I don't recall if I still</b></p> <p>9 <b>have it or not.</b></p> <p>10 Q. Do you use backup drives for your computers?</p> <p>11 <b>A. The only thing I've done is used an external</b></p> <p>12 <b>hard drive just for important documents.</b></p> <p>13 Q. How long have you had that for?</p> <p>14 <b>A. I don't know specifically. Approximately a</b></p> <p>15 <b>year.</b></p> <p>16 Q. Is there a backup system at your corporate</p> <p>17 offices?</p> <p>18 <b>A. When you say backup system, what do you mean?</b></p> <p>19 Q. Yeah. Is there something that backs your</p> <p>20 system up? For example, if your computers</p> <p>21 crashed, is there sort of a network-wide</p> <p>22 backup system for your documents?</p> <p>23 <b>A. I don't know the specific answer to that. I</b></p> <p>24 <b>don't know.</b></p> <p>25 Q. Who would know that? Would that be Marco?</p>                   |

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1 A. They may.  
2 Q. Is Marco M-A-R-C-O?  
3 A. Correct.  
4 Q. And with respect to email systems, do you use  
5 Microsoft Outlook?  
6 A. Correct.  
7 Q. Did you personally go into your Microsoft  
8 Outlook and search for emails as part of this  
9 case?  
10 A. I had my business office manager and Marco  
11 assist in trying to find emails related to  
12 this case.  
13 Q. And did they find any?  
14 A. I'm assuming they found whatever you've  
15 gotten.  
16 Q. Have you ever personally looked in your  
17 computer to see what emails you had related  
18 to this case?  
19 A. I allowed my business office manager to do it  
20 in relation to all of the emails that we were  
21 trying to search and find. So it was part of  
22 one, I guess, endeavor exhaustive search.  
23 Q. I'm asking you if you've ever personally went  
24 and looked through your emails?  
25 A. I don't recall if I -- looked for emails

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1 specific to this case?  
2 Q. Correct.  
3 A. I don't recall. I just don't recall if I  
4 looked for any particular email or not.  
5 Q. Do you delete your emails on a daily basis?  
6 A. I don't know how to answer that. I delete  
7 emails on a regular basis? I'm not sure what  
8 you are asking, I'm sorry.  
9 Q. Well, you receive, for example, segregation  
10 notices from the Sherburne County Jail,  
11 correct?  
12 A. Correct.  
13 Q. How long do you keep those for?  
14 A. Usually same day I delete. They are an FYI  
15 to me so that's how I --  
16 Q. So you delete the patient record of a  
17 segregation notice on the same day you get  
18 it?  
19 MR. NOVAK: I object to the form.  
20 THE WITNESS: I'm not even sure  
21 what you are asking. I'm sorry.  
22 BY MR. STORMS:  
23 Q. Well, you get a segregation notice directed  
24 to you, you are a doctor and they are a  
25 patient, correct?

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1 MR. NOVAK: I object to the form.  
2 THE WITNESS: I'm still not  
3 following. I get an email from a  
4 sheriff county -- or a Sherburne County  
5 Sheriffs Department that's supposed to  
6 be an FYI to me, it's not something that  
7 is a medical record for me.  
8 BY MR. STORMS:  
9 Q. What is your understanding of why you are  
10 getting that FYI?  
11 A. Literally as an FYI, just keeping me in the  
12 loop.  
13 Q. And why is it important that you be in the  
14 loop?  
15 A. I don't know specifically why they include me  
16 in that list, but I was told it was just an  
17 FYI.  
18 Q. And so when you get a segregation notice from  
19 Sherburne County Jail, do you read it?  
20 A. It depends on the situation. If it's a  
21 patient that I'm interested in, I may.  
22 Q. So some of them you'll delete without even  
23 reading the email?  
24 A. I'll read the email, and some I will delete  
25 after that.

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1 Q. Do you ever act on the segregation notices  
2 you receive from Sherburne County Jail?  
3 A. On occasion. On occasion.  
4 Q. Who is supposed to be acting on them?  
5 A. Well, they are directed mainly to our  
6 clinical personnel that are on site that work  
7 within Sherburne County Jail day in and day  
8 out, that's the primary audience to those  
9 emails.  
10 Q. Did you ever personally go and look to see if  
11 you were in possession of a segregation  
12 notice related to Dylan Brenner?  
13 A. We would have in the pursuit of all emails  
14 related to Dylan Brenner.  
15 Q. I'm asking you. Did you ever personally look  
16 in your computer to see if you received that  
17 segregation notice?  
18 A. Me personally alone? I don't know if I ever  
19 did that. I can tell you that as a team we  
20 most certainly did.  
21 Q. So in terms of retrieving documents, have you  
22 ever personally went into your computer to  
23 look for documents related to Dylan Brenner?  
24 A. Ever?  
25 Q. Yes.

|  |  |
|--|--|
| <p style="text-align: right;">Page 81</p> <p>1 <b>A. I don't know. I may have. I don't know. It</b><br/>2 <b>would depend on something more specific.</b><br/>3 Q. Well, you understand there are discovery<br/>4 obligations in this case, correct?<br/>5 <b>A. Absolutely.</b><br/>6 Q. And you understand that you've been sued in<br/>7 both your official capacity on behalf of MEnD<br/>8 and in your individual capacity?<br/>9 <b>A. Yes, I'm aware of that.</b><br/>10 Q. And what have you personally done in your<br/>11 official capacity, because we're going to<br/>12 have an individual deposition, too, but in<br/>13 your official capacity on behalf of MEnD,<br/>14 what have you personally done to ensure that<br/>15 your emails have been reviewed?<br/>16 <b>A. I cooperated with my team every step of the</b><br/>17 <b>way ensuring that they did an exhaustive</b><br/>18 <b>search of my email account.</b><br/>19 Q. So you gave them access to your email<br/>20 account?<br/>21 <b>A. I did.</b><br/>22 Q. And who would that have been?<br/>23 <b>A. Traci Newman and Marco. And I don't know who</b><br/>24 <b>else would have been involved in that beyond</b><br/>25 <b>those two.</b></p>                                  | <p style="text-align: right;">Page 83</p> <p>1 <b>to this endeavor today because that's what I</b><br/>2 <b>let them do with my team with Traci Newman</b><br/>3 <b>and Marco and whoever else was involved with</b><br/>4 <b>those two folks so --</b><br/>5 Q. Did Marco -- what is your understanding of<br/>6 what Marco did as a search for documents that<br/>7 were requested?<br/>8 <b>A. I don't have every specific of what they did,</b><br/>9 <b>I just know they did an exhaustive good faith</b><br/>10 <b>effort search working with my team.</b><br/>11 Q. I'm going to refer you to page six of the<br/>12 deposition notice.<br/>13 <b>A. Okay.</b><br/>14 Q. And first I'm going to refer you to topic<br/>15 number 30, the steps, actions, and efforts<br/>16 MEnD took to preserve documents and other<br/>17 information relative to Dylan Brenner. Are<br/>18 you prepared to provide that testimony today?<br/>19 <b>A. Yes.</b><br/>20 Q. Did you review documents in preparation to<br/>21 provide that testimony?<br/>22 <b>A. Review documents related to number 30?</b><br/>23 Q. Correct.<br/>24 <b>A. I'm not sure how to answer that. I mean, I</b><br/>25 <b>reviewed the documents that have been</b></p> |
| <p style="text-align: right;">Page 82</p> <p>1 Q. So on behalf of MEnD did you ever personally<br/>2 search for anything in any computer related<br/>3 to Dylan Brenner?<br/>4 <b>A. Again, I've answered this. We worked as a</b><br/>5 <b>team, I was directing the staff that I</b><br/>6 <b>thought would be best for these tasks and</b><br/>7 <b>tried to stay organized in that fashion. So</b><br/>8 <b>in that way, that's how I was involved.</b><br/>9 Q. And I want to make sure I'm clear, though.<br/>10 You've never personally gone into any<br/>11 computer and looked for documents related to<br/>12 Dylan Brenner?<br/>13 <b>MR. NOVAK:</b> I object to the form.<br/>14 <b>THE WITNESS:</b> I never looked in<br/>15 anybody else's email account personally.<br/>16 I worked with my office manager and<br/>17 Marco in that search but I wasn't<br/>18 personally hitting the keys and doing<br/>19 the search myself.<br/>20 <b>BY MR. STORMS:</b><br/>21 Q. With respect to your own emails?<br/>22 <b>A. Again, I've already answered this. I don't</b><br/>23 <b>know if I've ever looked in my email account</b><br/>24 <b>for an email regarding Dylan Brenner. I</b><br/>25 <b>certainly haven't done that in relationship</b></p> | <p style="text-align: right;">Page 84</p> <p>1 <b>produced. I can't tell you how -- I don't</b><br/>2 <b>know how to answer that.</b><br/>3 Q. Well, did MEnD ever make efforts to preserve<br/>4 video related to Dylan Brenner that you are<br/>5 aware of?<br/>6 <b>A. In what regard?</b><br/>7 Q. Any video of Dylan Brenner, are there any<br/>8 actions that MEnD took in an attempt to<br/>9 preserve video?<br/>10 <b>A. We wouldn't have control over any video of</b><br/>11 <b>Dylan Brenner.</b><br/>12 Q. Are you aware of the fact that Dylan Brenner<br/>13 was housed in a cell that was monitored by<br/>14 video?<br/>15 <b>A. For a portion of his time in Sherburne County</b><br/>16 <b>Jail, correct.</b><br/>17 Q. Did MEnD ever make any efforts to preserve<br/>18 that video?<br/>19 <b>A. It's not our video, that's Sherburne County's</b><br/>20 <b>ownership of that video. So they have to</b><br/>21 <b>decide what they are going to do with that</b><br/>22 <b>video, I can't direct them.</b><br/>23 Q. Well, did MEnD ever make any efforts to<br/>24 review that video?<br/>25 <b>A. I don't believe I ever reviewed that video</b></p>  |

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1     **given the nature of the case and what I was**  
2     **reviewing regarding his care.**  
3 Q. Did anyone from MEN D ever discuss with  
4     Sherburne County whether or not that video  
5     would be preserved?  
6 A. **I don't know if we had a specific discussion**  
7     **related to Dylan Brenner. I don't recall.**  
8 Q. After Dylan Brenner committed suicide what  
9     steps were taken to preserve emails related  
10    to Dylan Brenner?  
11 A. **Can you repeat that?**  
12 Q. After Dylan Brenner committed suicide what  
13    action did MEN D take to preserve emails  
14    related to Dylan Brenner?  
15 A. **Standard operating procedure. I'm not sure**  
16    **what you are asking.**  
17 Q. What is that, what is your standard operating  
18    procedure for the retention of documents at  
19    MEN D with respect to emails?  
20 A. **We have -- in regard to our use of Outlook we**  
21    **have a 50-gig max capacity in your email.**  
22    **And then if you are a previous employee, I**  
23    **think they are retained for 30 days.**  
24 Q. Where is this 50-gig max stored, is there a  
25    server at your corporate office?

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1 A. **I'm not -- I'm not intimately knowledgeable**  
2    **about how that is stored. I know that we**  
3    **have a Microsoft exchange email system, I**  
4    **believe it's called, but beyond that I don't**  
5    **know the intricacies of how that's stored.**  
6 Q. Is there a written policy with respect to the  
7    storage of email information at MEN D?  
8 A. **I don't believe we have a written policy to**  
9    **that particular.**  
10 Q. So you've also been identified on topic  
11    number 31, steps, actions, and efforts MEN D  
12    took to search for and retrieve documents and  
13    other information responsive to discovery  
14    requests in this lawsuit. Are you prepared  
15    to provide that testimony?  
16 A. **Yes.**  
17 Q. So was the server searched with respect to  
18    emails as to Dylan Brenner?  
19 A. **Again, I directed my business office manager**  
20    **to work with Marco to search wherever they**  
21    **could search exhaustively, good faith**  
22    **efforts, to find any emails that related to**  
23    **Dylan Brenner.**  
24 Q. Okay. I understand what you said, now I'm  
25    asking what actually happened. So you gave

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1     this direction. So were servers searched?  
2 A. **Again, I don't know the title of the area**  
3     **where emails are stored, if it's a server or**  
4     **it's another title. I know that's where they**  
5     **searched, where these emails would be stored.**  
6 Q. Okay. And you don't have an understanding of  
7     what was searched, though, with any  
8     technicality?  
9 A. **Not to the level of that detail, no.**  
10 Q. To what level of detail then?  
11 A. **If it's considered a server or was considered**  
12    **another term, I know it's the storage area**  
13    **for our emails was searched and searched**  
14    **exhaustively.**  
15 Q. By Marco?  
16 A. **By Marco and my office manager, Traci Newman.**  
17    **And if there was others involved, I just**  
18    **don't recall their names.**  
19 Q. And what other specific steps did MEN D take  
20    to look for emails?  
21 A. **I'm not sure what you are asking. That was**  
22    **-- that was a process in and of itself that**  
23    **was quite exhaustive. I mean, I'm not sure**  
24    **what else you are asking.**  
25       **MR. NOVAK:** He's just asking if

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1     there is anything else. Anything else  
2     beyond what you've already testified to.  
3       **THE WITNESS:** I don't believe there  
4     is anything else other than that because  
5     that was a significant undertaking, a  
6     tremendous undertaking.  
7    **BY MR. STORMS:**  
8 Q. So you have an understanding that all emails  
9    from the Sherburne County Jail by MEN D  
10   employees were ordered to produce from  
11   October 6th and 7th?  
12 A. **You'd have to repeat that question.**  
13 Q. Do you have an understanding that it was  
14   ordered by the court that all emails from  
15   MEN D employees at the Sherburne County Jail  
16   from October 6th and 7th be produced?  
17 A. **All emails or all emails related to Dylan**  
18   **Brenner?**  
19 Q. All emails.  
20 A. **I don't know if I'm aware of that**  
21   **particularly. I know that there was a**  
22   **significant search for any emails that could**  
23   **be related to Dylan Brenner.**  
24 Q. Were all emails from the Sherburne County  
25   Jail from October 6th and 7th searched for



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1 and produced?

2 **A. Anything that we have the ability to search,**

3 **absolutely.**

4 Q. So how was it that MEN D went about getting

5 all emails from October 6th and 7th from the

6 Sherburne County Jail to produce?

7 **A. So we would search any mendcare.com email**

8 **account that would have been related to care**

9 **during that time, and that would have been in**

10 **conjunction with my business office manager**

11 **and Marco.**

12 Q. How were those searched? For the October 6th

13 and 7th emails specifically what was

14 searched?

15 **A. I don't know if I can give you a complete**

16 **list but I know as part of it, at minimum, it**

17 **related to keyword searching, I know it**

18 **related to going to those specific dates.**

19 **Beyond that I can't give you every level of**

20 **detail of how they conducted that.**

21 Q. Do you know what keywords were searched?

22 **A. I don't remember the complete list.**

23 Q. Was there an email that you saw with that

24 list on it?

25 **A. I'm sorry, I don't understand.**

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1 Q. Was there an email with a list? In what form

2 was this list?

3 **A. An email with that list, I just don't**

4 **understand, I'm sorry.**

5 Q. Of search terms. For the search terms is

6 there a writing somewhere, whether it's an

7 email or another document, reflecting the

8 search terms that were used?

9 **A. That I don't know. I don't know.**

10 Q. Is there a search --

11 **A. I don't know if there was something retained.**

12 **I don't know.**

13 Q. Is there a server that is separate from the

14 server at your headquarters compared to the

15 server at Sherburne County Jail?

16 **MR. NOVAK: I object to the form.**

17 **THE WITNESS: I'm not understanding**

18 **the question. I'm sorry.**

19 **BY MR. STORMS:**

20 Q. Are there separate servers? Is there a

21 server at your headquarters for MEN D that

22 differs from the server at the Sherburne

23 County Jail?

24 **A. I'm sure there is.**

25 Q. Were they both searched?

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1 **A. We are not allowed to search Sherburne County**

2 **servers. That has to be done through**

3 **Sherburne County Sheriffs Department. But we**

4 **are able to search all mendcare.com email**

5 **accounts because that's under our control.**

6 Q. Is there a separate server specifically at

7 the Sherburne County Jail for MEN D emails?

8 **A. No, there is not.**

9 Q. And does MEN D storage capacity automatically

10 erase once it gets to the 50 gigs?

11 **A. As I understand it, it starts to -- and I**

12 **don't remember the term for this -- but it**

13 **starts to take oldest emails away if you go**

14 **beyond 50 gigs. That's my understanding.**

15 Q. And when was the first time that you would

16 have done this exhaustive search for Dylan

17 Brenner's emails?

18 **A. I don't remember the exact day but it was**

19 **whenever we were instructed to do so.**

20 Q. After the court ordered you to do so?

21 **A. To search for emails related to Dylan**

22 **Brenner?**

23 Q. Correct.

24 **A. I believe so.**

25 Q. Are you aware of the fact that the court

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1 issued monetary sanctions against MEN D for

2 failure to search prior to that?

3 **A. I'm not an attorney, I don't know the**

4 **specifics of what all that entails. I just**

5 **know there is something related to that.**

6 Q. You understand that MEN D got sanctioned in

7 this case?

8 **A. Again, I'm not an attorney but I know there**

9 **is something along those lines that --**

10 Q. And this exhaustive search occurred after

11 that?

12 **A. After what?**

13 Q. After the sanctions that were issued by the

14 court?

15 **MR. NOVAK: I object to the form.**

16 **THE WITNESS: I don't know the**

17 **specific timing of -- and these searches**

18 **were an ongoing process so I can't give**

19 **you the exact dates. But they were an**

20 **ongoing process in good faith.**

21 **BY MR. STORMS:**

22 Q. Were they in good faith before or after the

23 court issued sanction?

24 **A. I just answered that. I don't know the exact**

25 **dates of when all these things took place. I**

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1 just can't recall the exact dates.  
2 Q. Were there communications between MENd and  
3 Marco related to doing the searching?  
4 A. **What do you mean by communications?**  
5 Q. Are there emails with Marco explaining the  
6 parameters of the searching that would need  
7 to be done for these documents?  
8 A. **I don't recall.**  
9 Q. Who engaged in those communications on MENd's  
10 behalf with Marco with respect to the  
11 searching?  
12 A. **Primarily Traci Newman.**  
13 **MR. STORMS:** On the record I'm  
14 going to reserve the right to keep  
15 categories 30 and 31 open with respect  
16 to the information we're seeking in  
17 those categories.  
18 **MR. NOVAK:** We obviously would  
19 object to that. We'll sort it out later  
20 if we need to.  
21 **BY MR. STORMS:**  
22 Q. Now, my understanding is in 2017 you would  
23 have been providing service to over 30  
24 counties in Minnesota?  
25 A. **In 2017?**

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1 Q. Yes.  
2 A. **Correct.**  
3 Q. And --  
4 A. **I'm sorry, say that question again?**  
5 Q. My understanding is that in 2017 that MENd  
6 would have been providing service to over 30  
7 counties in Minnesota?  
8 A. **I don't know if I can specifically say over**  
9 **30 but it would have been -- it would have**  
10 **been approximately 30.**  
11 Q. Has MENd services been terminated ever by a  
12 county?  
13 A. **We've had two counties.**  
14 Q. Which counties were those?  
15 A. **Stearns County and Benton County, Minnesota.**  
16 Q. Did Stearns County give a reason for the  
17 termination?  
18 A. **I believe the verbiage used to me was we**  
19 **really appreciate your services but there are**  
20 **political issues in this county and you are**  
21 **political collateral damage.**  
22 Q. Did those political issues have to do with  
23 the fact there were at least three suicides  
24 while MENd was providing services at Stearns  
25 County?

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1 A. **Not that I'm aware of.**  
2 Q. What were the political issues you are aware  
3 of?  
4 A. **I don't know any details other than what I**  
5 **just told you because they wouldn't share any**  
6 **more details with me. My belief is it's an**  
7 **issue between CentraCare, the health care**  
8 **system up there, and the Stearns County**  
9 **board.**  
10 Q. So --  
11 A. **But I don't know any other detail other than**  
12 **that.**  
13 Q. So if we depose a representative from Stearns  
14 County, you would not expect them to say that  
15 it was as a result to the number of suicides  
16 at the Stearns County Jail?  
17 A. **I would not expect them to say that, no.**  
18 Q. Why did Benton County terminate services?  
19 A. **Typically Stearns and Benton go hand in hand**  
20 **and at that time I believe CentraCare was**  
21 **working basically with both counties, but I**  
22 **don't know any other details on that.**  
23 Q. Are you able to give an approximation of the  
24 number of employees working for MENd in  
25 October of 2017?

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1 A. **Yeah, it would have been approximately 150.**  
2 Q. And are you able to give an estimate of the  
3 annual number of patients that MENd saw in  
4 2017 on a weekly basis?  
5 A. **I can give you an estimate daily and then we**  
6 **can just use math.**  
7 Q. Sure.  
8 A. **An estimate would have been approximately 340**  
9 **a day, and that can include anything from**  
10 **minor encounters on up.**  
11 Q. Just in Minnesota?  
12 A. **That would have been the whole company.**  
13 Q. And now MENd -- when did MENd first start  
14 using the eMD system?  
15 A. **The eMD system was actually chosen prior to**  
16 **my arrival at Sherburne County Jail, so it's**  
17 **been in use -- or it was decided on its use I**  
18 **believe back in 2006.**  
19 Q. Is Sherburne County the only location where  
20 MENd uses eMDs?  
21 A. **Correct.**  
22 Q. Does MENd otherwise use any electronic  
23 medical record keeping?  
24 A. **We have another vendor that we work with in a**  
25 **couple of our facilities.**

|  |  |
|--|--|
| <p style="text-align: right;">Page 97</p> <p>1 Q. Which is the other vendor?</p> <p>2 <b>A. Fusion Centricity.</b></p> <p>3 Q. And so throughout the entire time that MENd</p> <p>4 has provided services at Sherburne County</p> <p>5 it's been utilizing the eMD system?</p> <p>6 <b>A. In one form or another, correct.</b></p> <p>7 Q. And is the eMD something that is able to be</p> <p>8 accessed remotely by you?</p> <p>9 <b>A. It has been for part of that time. I don't</b></p> <p>10 <b>recall when it went to cloud based, but at</b></p> <p>11 <b>some point it went cloud based and then I</b></p> <p>12 <b>could begin accessing it remotely.</b></p> <p>13 Q. Could you access it remotely in 2017?</p> <p>14 <b>A. I believe so.</b></p> <p>15 Q. Who else would have been given remote access</p> <p>16 to eMDs in 2017 for MENd?</p> <p>17 <b>A. Any medical staff member from Sherburne</b></p> <p>18 <b>County Jail clinic who had a user account.</b></p> <p>19 Q. Now, you are familiar with Stella Essien?</p> <p>20 <b>A. Correct.</b></p> <p>21 Q. Essien?</p> <p>22 <b>A. Essien.</b></p> <p>23 Q. Essien.</p> <p>24 <b>A. Mm-hum.</b></p> <p>25 Q. So Stella Essien is someone who would have</p>          | <p style="text-align: right;">Page 99</p> <p>1 inmates at the Sherburne County Jail?</p> <p>2 <b>A. Yep. And then she would have been expected</b></p> <p>3 <b>to garner her information, like many county</b></p> <p>4 <b>jails, from direct communication with the</b></p> <p>5 <b>staff there.</b></p> <p>6 Q. But she would not have had the ability to</p> <p>7 access historical medical records of</p> <p>8 patients?</p> <p>9 <b>A. Through the staff at the jail clinic she</b></p> <p>10 <b>would.</b></p> <p>11 Q. You mean orally?</p> <p>12 <b>A. Yeah, she could discuss any information that</b></p> <p>13 <b>she needed to perform her duties with the</b></p> <p>14 <b>clinic staff that were on site.</b></p> <p>15 Q. And that clinic staff would be registered</p> <p>16 nurses?</p> <p>17 <b>A. In part.</b></p> <p>18 Q. What else?</p> <p>19 <b>A. What?</b></p> <p>20 Q. You'd have health technicians, who else would</p> <p>21 be there that would be communicating with her</p> <p>22 as the on-call --</p> <p>23 <b>A. Oh, primarily direct communication with</b></p> <p>24 <b>Stella would have been through nursing staff.</b></p> <p>25 Q. So she has to rely upon, as the on-call</p>   |
| <p style="text-align: right;">Page 98</p> <p>1 been a medical provider for MENd?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And she was not located primarily at</p> <p>4 Sherburne County?</p> <p>5 <b>A. Correct.</b></p> <p>6 Q. But she would take on-call shifts where she</p> <p>7 would have been the on-call medical provider</p> <p>8 for Sherburne County?</p> <p>9 <b>A. She would have been in that rotation,</b></p> <p>10 <b>correct.</b></p> <p>11 Q. It was her testimony that she was not</p> <p>12 provided access to the eMD system, is that</p> <p>13 your understanding, that she was not provided</p> <p>14 that access?</p> <p>15 <b>A. That's my understanding.</b></p> <p>16 Q. Why is it that the on-call providers for MENd</p> <p>17 were not provided with access to the eMD</p> <p>18 system?</p> <p>19 <b>A. It's just a standard within our industry if</b></p> <p>20 <b>you are not primarily located at a site like</b></p> <p>21 <b>that, you are likely not going to have a user</b></p> <p>22 <b>account because you don't have regular</b></p> <p>23 <b>routine access to that system.</b></p> <p>24 Q. But she would be the direct medical provider</p> <p>25 during those on-call hours for all the</p> | <p style="text-align: right;">Page 100</p> <p>1 provider, to rely upon the nursing staff to</p> <p>2 give her the necessary historical information</p> <p>3 for the patient?</p> <p>4 <b>A. Yes. And that's very common in most</b></p> <p>5 <b>facilities.</b></p> <p>6 Q. Does the eMD system have the ability to have</p> <p>7 standing orders in place?</p> <p>8 <b>A. I don't know if it has that capability.</b></p> <p>9 Q. Have you personally worked with eMDs before?</p> <p>10 <b>A. Yes. Many times.</b></p> <p>11 Q. And you would create notes in eMD as both the</p> <p>12 primary provider but also as a supervising</p> <p>13 provider?</p> <p>14 <b>A. Depending on what time frame you are talking</b></p> <p>15 <b>about. So --</b></p> <p>16 Q. You've done both of those things, though?</p> <p>17 <b>A. Can you repeat the question again, though?</b></p> <p>18 Q. Yeah. You've created medical records in the</p> <p>19 eMD system in both your role as a primary</p> <p>20 provider but also as a supervising provider?</p> <p>21 <b>MR. NOVAK:</b> I object to the form.</p> <p>22 <b>THE WITNESS:</b> I don't know how to</p> <p>23 distinguish the two in terms of creating</p> <p>24 a document in eMDs, it's just not how I</p> <p>25 would categorize it. If I needed to</p> |

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1 create a document in eMDs, I will create  
2 a document in eMDs in whatever capacity  
3 I need to.  
4 **BY MR. STORMS:**  
5 Q. There are some medical records that are  
6 created by nurses that require the  
7 supervision of a medical provider?  
8 **MR. NOVAK:** I object to the form,  
9 incomplete hypothetical.  
10 **THE WITNESS:** Can you repeat that  
11 again?  
12 **BY MR. STORMS:**  
13 Q. There are some medical records that are  
14 created by nurses that require signed  
15 supervision by a medical provider?  
16 **A. Yes, there are certain encounters that must**  
17 **be signed off by a medical provider.**  
18 Q. And you've signed off on documents like that  
19 in the role as a medical provider?  
20 **A. Yes.**  
21 Q. But no one else needs to supervise your work  
22 so if you were charting a note, you wouldn't  
23 have somebody else sign off as your  
24 supervisor?  
25 **A. No. And neither would Janell Hussain or any**

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1 **other medical provider.**  
2 Q. So there is no situation where Janell Hussain  
3 would need you to sign off in a supervisory  
4 capacity?  
5 **A. No.**  
6 Q. But Janell Hussain would sign off on nurse's  
7 charting notes in a supervisory capacity?  
8 **A. Yes. There are certain notes that is**  
9 **required for her to review and sign off, and**  
10 **then there is others that are her discretion**  
11 **whether she wishes to review.**  
12 Q. Did you ever intentionally program the eMD  
13 system to sign your name in a supervisory  
14 capacity when you weren't actually reviewing  
15 notes?  
16 **A. Oh goodness no.**  
17 Q. Are you aware of eMDs signing your name when  
18 you were not actually providing work in a  
19 supervisory capacity?  
20 **A. I am aware of that now.**  
21 Q. And you became aware of that as a result of  
22 the Dylan Brenner case?  
23 **A. I can't recall the exact timing, I just know**  
24 **I became aware of it personally at some point**  
25 **in 2019.**

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1 Q. And you have an understanding that Dylan  
2 Brenner committed suicide in 2017?  
3 **A. Correct.**  
4 Q. So this automatic signing of your name was  
5 going on for at least two years?  
6 **MR. NOVAK:** I object to the form.  
7 **THE WITNESS:** I don't know  
8 specifically how long it's been going  
9 on. What was happening was when a  
10 person provided care in a facility and  
11 they went to sign off, it would somehow  
12 input my name instead of their name.  
13 **BY MR. STORMS:**  
14 Q. Who informed you of this?  
15 **A. I don't recall who initially informed me. I**  
16 **just don't recall which person it was.**  
17 Q. And no one at the facility alerted you to the  
18 fact that it was automatically signing your  
19 name prior to that?  
20 **A. Prior to when I was informed?**  
21 Q. Correct.  
22 **A. No. I mean, that's when I was informed and**  
23 **that's when I understood what was happening.**  
24 Q. Did you ever ask anybody why you weren't  
25 informed of that earlier?

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1 **A. I don't believe others understood what was**  
2 **happening prior to that. I think it was very**  
3 **real time, very -- that's my understanding.**  
4 Q. Once you learned about it, did you make any  
5 efforts to go back and conduct an audit to  
6 determine how many patient files were  
7 impacted by that?  
8 **A. Yes. What we did is we tried to -- first we**  
9 **just tried to understand what was happening.**  
10 **And then using deduction, we determined what**  
11 **was happening. Then we tried to understand**  
12 **who it was affecting. And what we found was**  
13 **it would happen sometimes, not happen**  
14 **sometimes, and then we alerted the eMD's**  
15 **vendor.**  
16 Q. So after you alerted the eMD's vendor, one,  
17 did they explain to you what was happening?  
18 What was your understanding of why this was  
19 happening?  
20 **A. I don't know if they've got a perfect answer**  
21 **to that. This is an ongoing, you know,**  
22 **service issue with them as we speak.**  
23 Q. Were you personally involved in speaking with  
24 eMDs?  
25 **A. I don't know if I ever personally spoke to**

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1     **them. I know Diana VanDerBeek has spoken to**  
2     **them many times.**  
3     Q. Is it still happening?  
4     A. **It is.**  
5     Q. So there are still records that are signed  
6     off on your name even though you are not  
7     providing the patient care?  
8     A. **Yeah, even though I'm not directly providing**  
9     **that care. And we continue to try and push**  
10    **eMDs to resolve this issue.**  
11    Q. Have you raised that concern with Sherburne  
12    County?  
13    A. **They are aware.**  
14    Q. And has there been a resolution with MENd and  
15    Sherburne County?  
16    A. **Yeah. Sherburne County is actually in**  
17    **negotiations, as we speak, with Fusion**  
18    **Centricity to change the EMR vendor.**  
19    Q. So have you conducted an actual audit,  
20    though, to see the number of files that have  
21    been impacted by this?  
22    A. **I'm not sure what you mean audit.**  
23    Q. Meaning have you attempted to figure out how  
24    many patient files have been impacted by  
25    this?

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1     A. **I tried to figure that out and then we have**  
2     **basically worked with eMDs for them to try**  
3     **and take this and run with it and try to get**  
4     **this resolved so we can get those signatures**  
5     **back to the person that it should have been.**  
6     Q. So what is your understanding of how many  
7     patient files at Sherburne County have been  
8     impacted by this?  
9     **MR. NOVAK:** I object to the form.  
10    **THE WITNESS:** I don't have an exact  
11    answer for you. And one other issue I  
12    should mention with that is this issue  
13    with this signature, it doesn't impact  
14    care but it impacts the appearance of  
15    the chart.  
16    **BY MR. STORMS:**  
17    Q. Why is it that you believe it doesn't impact  
18    patient care?  
19    A. **Because you are able to do all the things**  
20    **that you need to do on the eMD system that**  
21    **it's capable of irregardless of that issue.**  
22    Q. Now, if medical records that were supposed to  
23    be approved by a different medical provider  
24    were not actually being reviewed, you would  
25    agree that would impact patient care?

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1     **MR. NOVAK:** I object to form,  
2     incomplete hypothetical. Go ahead.  
3     **THE WITNESS:** Go ahead and repeat  
4     the question and I'll give you my  
5     answer. Sorry.  
6    **BY MR. STORMS:**  
7    Q. If medical records that were supposed to be  
8    reviewed by a medical provider were not as a  
9    result of this signature issue, you would  
10   agree that impacts patient care?  
11   A. **If that were the case. But it's not the**  
12   **case.**  
13   Q. Did you review Janell Hussain's deposition  
14   transcript?  
15   A. **I did.**  
16   Q. And did you review the portion of her  
17   transcript where she stated that no medical  
18   provider was signing off on a number of those  
19   documents that reflected your name?  
20   A. **I don't recall the specifics of her testimony**  
21   **but I can tell you based on what I've found**  
22   **in eMDs, two things, number one, all the**  
23   **encounters and documents that must be signed**  
24   **off, still are in place. Those had no issue**  
25   **whatsoever. And then the other medical**

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1     **records where it's at her discretion to**  
2     **review, those still kept coming in.**  
3     Q. Which ones are the ones that must be  
4     reviewed?  
5     A. **All health assessments, all documents where**  
6     **watches have been put in place or changed or**  
7     **discontinued, and all mental health**  
8     **professional visits. I'm trying to recall**  
9     **off the top of my head if there is anything**  
10    **else. I just don't recall off the top of my**  
11    **head. But those are the primary encounters**  
12    **that must be reviewed by the medical**  
13    **provider.**  
14    Q. Toxicology screens, do those need to be  
15    reviewed by the medical provider?  
16    A. **Specifically like the results?**  
17    Q. Correct.  
18    A. **They don't need to be specifically reviewed**  
19    **by the medical provider, the actual test**  
20    **itself.**  
21    Q. And what about the plan stemming from a test,  
22    does that have to be reviewed by the medical  
23    provider?  
24    A. **Not necessarily. It depends on the visit, if**  
25    **that nurse is required to have medical**

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1 provider involvement.  
2 Q. Based upon protocols?  
3 A. **Based upon protocols and the scope of their**  
4 **practice and any training procedures that we**  
5 **have in place.**  
6 Q. So as you sit here today you have no ability  
7 to place a number on how many times your  
8 signature has been incorrectly affixed to  
9 patient medical records?  
10 A. **In place of the person who entered the note?**  
11 Q. Correct.  
12 A. **I don't have a specific number for you.**  
13 Q. So it could be 10,000 for all you know?  
14 A. **I don't believe it would be that high. I'd**  
15 **have to do some math but I don't believe it**  
16 **would be that high.**  
17 Q. Well, if we did some math, you have -- how  
18 many patients are seen on average on a daily  
19 basis at Sherburne County?  
20 A. **There would be on average 50 to 60 in some**  
21 **way, shape, or form touches to a patient.**  
22 **Some of those may be face-to-face encounters,**  
23 **some of them may be notation of**  
24 **documentation, or just some administrative**  
25 **note.**

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1 Q. So 50 to 60 touches on a patient on a daily  
2 basis at Sherburne County?  
3 A. **Give or take. And again, those vary in what**  
4 **they are so --**  
5 Q. So if we call it 50 on a daily basis, that  
6 would be 350 encounters a week, right, 50  
7 times 7?  
8 A. **Correct.**  
9 Q. And if we took 350 and multiplied it by 52  
10 weeks, that would be 18,200 touches a year?  
11 A. **Then your math is much better than mine.**  
12 Q. That's my calculator's math.  
13 A. **I didn't go through the process. I**  
14 **apologize.**  
15 Q. So if there is -- just using your estimate on  
16 the low end, there are potentially tens of  
17 thousands of touches between 2017 that could  
18 have been charted and inaccurately reflected  
19 your supervision?  
20 A. **Not all of those visits each day you would**  
21 **have this issue with, it would be some of the**  
22 **face-to-face encounters. So I can't give you**  
23 **an exact number.**  
24 Q. Does it concern you that your name is  
25 inaccurately on all of these documents?

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1 A. **Of course it does.**  
2 Q. But the issue is still not resolved a year  
3 later?  
4 A. **Not resolved.**  
5 Q. Have you individually pulled each one of  
6 these records as an entity to review them to  
7 see if your name is inaccurately on them?  
8 A. **Have I done what?**  
9 Q. Have you had each individual record pulled to  
10 determine which records your name is  
11 inaccurately on?  
12 A. **Every -- no, I've not pulled every.**  
13 Q. Do you know how many -- do you know how many  
14 inmates at Sherburne County Jail who have  
15 committed suicide that your name is  
16 inaccurately reflected on their medical  
17 records?  
18 A. **Yes.**  
19 Q. How many inmates is that?  
20 A. **Three.**  
21 Q. Dylan Brenner?  
22 A. **Correct.**  
23 Q. James Lynas?  
24 A. **Correct.**  
25 Q. And Justice White?

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1 A. **Correct.**  
2 Q. All three of them have records reflecting  
3 that you provided them care that you in fact  
4 did not provide?  
5 MR. NOVAK: I object to the form  
6 with respect to provided care. Go  
7 ahead.  
8 THE WITNESS: It had my signature.  
9 It has the name of the person who  
10 provided the care on the note but it has  
11 my signature. So every note that's  
12 created by an individual in Sherburne  
13 County Jail clinic has their name on it,  
14 it just has my electronic signature  
15 instead of theirs when this occurred.  
16 BY MR. STORMS:  
17 Q. And you would agree to a reader of those  
18 documents, reading of that document would  
19 reflect that you provided those patients with  
20 care?  
21 MR. NOVAK: I object to the form,  
22 foundation.  
23 THE WITNESS: No, I wouldn't assume  
24 that. I think what could reasonably be  
25 assumed is somehow I reviewed that

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1 document real time when that did not  
2 happen.  
3 **BY MR. STORMS:**  
4 Q. For any three of those individuals?  
5 **A. Yes, that is possible.**  
6 Q. Have you disclosed those inaccurate records  
7 to either the Minnesota Board of Medical  
8 Practice or any other third party agency?  
9 **MR. NOVAK:** I object to the form.  
10 **THE WITNESS:** We have not, because  
11 I don't feel that this issue has  
12 affected patient care whatsoever. It's  
13 the appearance of the signature that is  
14 the issue at hand. But it hasn't  
15 interrupted or disrupted or affected the  
16 care that patients are provided.  
17 **BY MR. STORMS:**  
18 Q. And as you sit here today what is your best  
19 understanding as to the technical reason why  
20 your name is appearing on all of these  
21 documents?  
22 **A. eMDs has not been able to give me a full**  
23 **explanation to this date. And we've reached**  
24 **out to them repeatedly to get that answer.**  
25 Q. So you've known about this since at least at

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1 some point in 2019, have not gotten a clear  
2 answer, but have continued to use the eMD  
3 system?  
4 **A. Yes. We've had to use that system because**  
5 **it's what is in place, and we know that this**  
6 **issue is not affecting patient care. So**  
7 **while we continue to try and work with eMDs**  
8 **to resolve this issue, we still know that the**  
9 **patient care is being delivered**  
10 **appropriately.**  
11 **MR. MONTPETIT:** Do you want this  
12 back?  
13 **MR. STORMS:** No, that's all right.  
14 Let's go off the record for a second.  
15 (There was a discussion off  
16 the record.)  
17 **BY MR. STORMS:**  
18 Q. I'll hand you the binder back and turn your  
19 attention to Exhibit 31.  
20 **A. Okay.**  
21 Q. Did you review this document in preparation  
22 for today's deposition?  
23 **A. I did.**  
24 Q. And this document was signed by Christina  
25 Leonard; is that correct?

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1 **A. I'm not sure how to answer that question.**  
2 Q. Why?  
3 **A. She signed it but it affixed my name.**  
4 Q. So she signed it but it states that it was  
5 supervised by you?  
6 **A. Again, I just want to make sure I'm accurate**  
7 **when I answer this. It is her providing**  
8 **care, it states supervised by me, but it**  
9 **incorrectly has her as my name as when she**  
10 **signed it.**  
11 Q. So should she have been the one signing this  
12 chart note?  
13 **A. She did sign this chart note but it affixed**  
14 **my name.**  
15 Q. But it also, in addition to affixing your  
16 name, it reflects that she's being supervised  
17 by you, correct?  
18 **A. Correct.**  
19 Q. Was she being supervised by you with respect  
20 to Exhibit 31?  
21 **A. So when Janell Hussain became a primary care**  
22 **provider there, there was a lag in switching**  
23 **my name out to her name with eMDs, but the**  
24 **spirit of that is still the same, that as**  
25 **medical providers either of our names can be**

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1 **on this as supervised by them.**  
2 Q. So is it incorrect that she was being  
3 supervised by you or is that a correct  
4 statement?  
5 **A. It's just a -- it is a standard language**  
6 **piece that is in the eMDs EMR system that**  
7 **must have a name affixed to it. So**  
8 **operationally am I directly supervising**  
9 **Christina Leonard? No. But in the eMD**  
10 **system it has to have one of our name on**  
11 **there as supervised by.**  
12 Q. And is this a chart note that could have been  
13 signed by Christina Leonard or is this a  
14 chart note that has to be signed by a medical  
15 provider?  
16 **A. No, this is a note that can be signed by**  
17 **Christina Leonard.**  
18 Q. Does this note need to be directly supervised  
19 by any medical provider or is this a record  
20 that has to be reviewed by a medical  
21 provider?  
22 **A. No.**  
23 Q. Why is this a record that does not need to be  
24 reviewed by a medical provider?  
25 **A. Because it doesn't fit into our category**

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1     **where we require it.**  
2     Q. Within your policy and protocols?  
3     **A. And standard procedures and training and**  
4     **scope of practice.**  
5     Q. So your understanding with respect to the  
6     legal standards for scope of practice within  
7     the State of Minnesota that this could have  
8     been within the scope of Christina Leonard's  
9     practice as an RN?  
10     **MR. NOVAK:** I object to the form.  
11     **THE WITNESS:** It's my understanding  
12     that it is within her scope to acquire a  
13     urine specimen and run a urine specimen  
14     and document the results of that  
15     specimen.  
16     **BY MR. STORMS:**  
17     Q. And it's within the scope of her practice as  
18     an RN to issue the order of a Medical  
19     Professional Profile (12 Drugs) Screen and  
20     Confirmation?  
21     **A. They are allowed to, per our processes, she's**  
22     **allowed to acquire a urine in very particular**  
23     **circumstances but in any circumstances where**  
24     **she deems necessary.**  
25     Q. And it's within the scope of her -- it's your

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1     understanding it's within the scope of an  
2     RN's practice to issue the care plan that she  
3     issued here, which is no chemical withdrawal  
4     watch needed at this time?  
5     **A. For this particular situation, yes.**  
6     Q. What would impact whether or not this needed  
7     to be reviewed by a medical provider?  
8     **A. If there was any information that this**  
9     **patient was suffering from significant**  
10    **withdrawal and the fact that the PCP was most**  
11    **undoubtedly a false positive.**  
12    Q. Okay. Where is it documented that the PCP  
13    was a false positive?  
14    **A. It's not documented on this note.**  
15    Q. So why would she be operating under the  
16    assumption it's a false positive?  
17    **A. She wouldn't be operating under that**  
18    **assumption.**  
19    Q. So she should be under the assumption that it  
20    is positive for PCP?  
21    **A. Yeah. Until proven otherwise she's assuming**  
22    **that this patient has PCP in their system,**  
23    **yes.**  
24    Q. So it's your understanding it's within the  
25    scope of an RN's practice to identify a

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1     patient as positive for PCP and then make  
2     decisions with respect to chemical withdrawal  
3     watches absent supervision by a medical  
4     provider?  
5     **A. That's a long question. Do you mind**  
6     **repeating it?**  
7     Q. It's your understanding that it was within  
8     the scope of Christina Leonard's practice as  
9     an RN to make a decision with respect to the  
10    need for a chemical withdrawal watch without  
11    the supervision of a medical provider in this  
12    case?  
13    **A. Well, what I believe what she was doing in**  
14    **this instance is given the information that**  
15    **she knew, she wasn't going to start a**  
16    **chemical watch at least yet. And there would**  
17    **be followup with this patient.**  
18    Q. But despite the existence of a PCP test that  
19    has to be assumed to be positive?  
20    **A. Correct.**  
21    Q. She still would not be required to confer  
22    with a medical provider?  
23    **A. I would have preferred that she started it**  
24    **then, but this would have been followed up**  
25    **with his next visit because he had just**

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1     **arrived recently to the facility. So this**  
2     **would have been an issue that would have been**  
3     **reevaluated on her next visit. What she was**  
4     **saying is that she doesn't want to start a**  
5     **chemical withdrawal watch at this time.**  
6     Q. It's something that you also would have  
7     expected to have been considered with the  
8     constellation of the other information  
9     available to her with respect to Mr. Brenner?  
10    **A. Can you be more specific?**  
11    Q. Sure. You would expect her to take into  
12    account any available medical history to her  
13    including drug use or suicidality issues?  
14         **MR. NOVAK:** I object to the form.  
15         **THE WITNESS:** In regards to this  
16    issue and whether she needs -- it would  
17    have been the information that she was  
18    being provided regarding that patient at  
19    that time that was there for chemical  
20    withdrawal issues.  
21    **BY MR. STORMS:**  
22    Q. Well, that information is available to her on  
23    eMDs, correct?  
24    **A. Not the appearance or the behavior of the**  
25    **patient at that moment in time.**



| Page 121  | Page 123   |
|---|--|
| <p>1 Q. But Mr. Brenner's medical history is?</p> <p>2 <b>A. What I'm saying is his medical history</b></p> <p>3 <b>doesn't impact the appearance of him from a</b></p> <p>4 <b>chemical withdrawal perspective at that</b></p> <p>5 <b>period of time, in that moment of time.</b></p> <p>6 Q. So Mr. Brenner's medical history does not</p> <p>7 impact the decision making relative to</p> <p>8 chemical withdrawal?</p> <p>9 <b>A. Oh, I didn't say that.</b></p> <p>10 Q. Okay. I don't understand then. So Christina</p> <p>11 Leonard obviously accessed the eMD system,</p> <p>12 and we know that because we have this note in</p> <p>13 front of us, right, Exhibit Number 31?</p> <p>14 <b>A. Correct.</b></p> <p>15 Q. And in accessing the eMD system, she would</p> <p>16 have had access to any of Mr. Brenner's</p> <p>17 historical records?</p> <p>18 <b>A. It would have been available to her, correct.</b></p> <p>19 Q. If, for example, Mr. Brenner had a history of</p> <p>20 receiving medications at the Sherburne County</p> <p>21 Jail, that would have been reflected in the</p> <p>22 eMD system?</p> <p>23 <b>MR. NOVAK:</b> Form and foundation.</p> <p>24 <b>THE WITNESS:</b> You mean on a</p> <p>25 previous incarceration?</p> | <p>1 not Mr. Brenner goes on a chemical withdrawal</p> <p>2 watch?</p> <p>3 <b>A. It would have minimal impact at that time.</b></p> <p>4 Q. Does the potential of the chemical withdrawal</p> <p>5 impact the need to assess Mr. Brenner with</p> <p>6 respect to suicidality?</p> <p>7 <b>MR. NOVAK:</b> I object to the form.</p> <p>8 <b>THE WITNESS:</b> Can you repeat that?</p> <p>9 <b>BY MR. STORMS:</b></p> <p>10 Q. Yeah. Does the existence of Mr. Brenner's</p> <p>11 diagnosed -- well, let me back up.</p> <p>12 Here Mr. Brenner is diagnosed as having</p> <p>13 drug withdrawal?</p> <p>14 <b>A. Yeah. Unfortunately in the eMD system it</b></p> <p>15 <b>isn't built for corrections. So to be able</b></p> <p>16 <b>to sign off on a note, you have to put</b></p> <p>17 <b>something in the assessment section that, to</b></p> <p>18 <b>the best of your ability, fits the situation.</b></p> <p>19 <b>Otherwise she can't sign off on the note.</b></p> <p>20 Q. But as we read this note here, he's diagnosed</p> <p>21 with drug withdrawal?</p> <p>22 <b>A. That's what she had to put into the system to</b></p> <p>23 <b>complete the note.</b></p> <p>24 Q. And whether or not someone is going through a</p> <p>25 drug withdrawal impacts their risk for</p> |
| Page 122  | Page 124   |
| <p>1 <b>MR. STORMS:</b> Correct.</p> <p>2 <b>THE WITNESS:</b> Yes. I mean, that</p> <p>3 information certainly is in there.</p> <p>4 <b>BY MR. STORMS:</b></p> <p>5 Q. And if he were a suicide risk during his</p> <p>6 prior incarceration, that information would</p> <p>7 have been available to her as well?</p> <p>8 <b>A. I'm not sure what you mean by a suicide risk</b></p> <p>9 <b>because every human being has a suicide risk.</b></p> <p>10 <b>I'm not --</b></p> <p>11 Q. Every human being does not have an eMDs chart</p> <p>12 at the Sherburne County Jail, correct?</p> <p>13 <b>A. Correct.</b></p> <p>14 Q. And you are aware of the fact that in</p> <p>15 Mr. Brenner's eMDs chart under the list of</p> <p>16 current problems suicide risk was identified?</p> <p>17 <b>A. Yes. That was entered in his eMDs chart,</b></p> <p>18 <b>correct.</b></p> <p>19 Q. And that would have been available to</p> <p>20 Christina Leonard?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And so Mr. Brenner's prior prescription drug</p> <p>23 history and his prior history of suicidality,</p> <p>24 does that need to be considered at all when</p> <p>25 making decisions with respect to whether or</p>  | <p>1 suicidality, you've learned that as part of</p> <p>2 your training?</p> <p>3 <b>A. It can be a factor. Depending on each</b></p> <p>4 <b>individual patient, of course. And I would</b></p> <p>5 <b>not expect someone who is recently brought in</b></p> <p>6 <b>the facility, even if he did have PCP in his</b></p> <p>7 <b>system, to be a major impact at that time.</b></p> <p>8 Q. And there is a nursing protocol that was in</p> <p>9 place for mild to moderate chemical</p> <p>10 withdrawal?</p> <p>11 <b>A. Correct.</b></p> <p>12 Q. But it's within the discretion of the RN</p> <p>13 about whether or not to initiate that</p> <p>14 chemical withdrawal process?</p> <p>15 <b>A. I'd have to run through the protocol with you</b></p> <p>16 <b>to answer a specific question.</b></p> <p>17 Q. Yeah. So Exhibit 32, which is the next</p> <p>18 exhibit.</p> <p>19 <b>A. Okay.</b></p> <p>20 Q. I just want to be clear that under this</p> <p>21 protocol Christina Leonard would have</p> <p>22 understood that it was within her discretion</p> <p>23 to initiate a chemical watch?</p> <p>24 <b>A. No, and this goes back to what I was trying</b></p> <p>25 <b>to say earlier, this issue would have</b></p>  |

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1 continued to be addressed by her, she just  
2 wasn't initiating a chemical withdrawal watch  
3 yet.  
4 Q. Would you have expected her to put eyes on  
5 Dylan Brenner?  
6 A. **Not necessarily at that time.**  
7 Q. And you are saying that's your assessment  
8 based upon a comprehensive review of Dylan  
9 Brenner or just based upon the withdrawal  
10 information?  
11 A. **No, it would have been the information that**  
12 **was provided to her about the patient at that**  
13 **time, and then based upon her training and**  
14 **her observations of that entire situation.**  
15 Q. Okay. I'll come back to that but just so --  
16 so based upon the toxicology screen in  
17 Exhibit 31, you believe that there was no  
18 need for her to go see Dylan Brenner just  
19 based on that screening alone?  
20 A. **Based on this screening alone, no. Unless**  
21 **there was some concern brought to her**  
22 **attention by the staff in booking, this**  
23 **result in and of itself does not mean she**  
24 **needs to have eyes on him at that time.**  
25 Q. And if you were training someone at MEN D,

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1 would you train them that a result like this,  
2 you know, a positive PCP and a positive THC  
3 would not warrant immediate eyes on a  
4 patient?  
5 A. **It would have been discussed that these are**  
6 **two substances that unless, again, there is**  
7 **some concern about the behavior or appearance**  
8 **of a patient, aren't as urgent in that**  
9 **assessment.**  
10 Q. And so not as urgent, so is there a guideline  
11 of how long it could be before eyes are put  
12 on a patient with that toxicology screen?  
13 A. **It really wouldn't be -- it's apples and**  
14 **oranges. What she would do is she would have**  
15 **her procedures of when this patient should be**  
16 **assessed, and a lot of that is based on the**  
17 **information that's provided when this patient**  
18 **is in booking. So it's apples and oranges is**  
19 **the best way I can describe it.**  
20 Q. Whose job is it to determine if the PCP is a  
21 false positive?  
22 A. **Ultimately that would be the medical**  
23 **provider's job.**  
24 Q. So the medical provider would need to be  
25 informed that this patient tested positive

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1 for PCP?  
2 A. **Yeah, eventually this patient is going to be**  
3 **reevaluated by a nursing staff and that would**  
4 **be reported to our medical provider.**  
5 Q. But you wouldn't expect that PCP positive to  
6 be reported to the medical provider in real  
7 time?  
8 A. **It doesn't necessarily need to be at that**  
9 **moment based on the overall clinical**  
10 **situation in front of her.**  
11 Q. And so it's your understanding that the  
12 medical literature and general standards of  
13 care would inform a medical provider that  
14 there is not an immediate concern necessarily  
15 with PCP withdrawal?  
16 MR. NOVAK: I object to the form,  
17 incomplete hypothetical.  
18 THE WITNESS: And I'm sorry, I'm  
19 going to have to have you repeat that.  
20 BY MR. STORMS:  
21 Q. Yeah. Is it your understanding that based  
22 upon either the standard of care or review of  
23 the medical literature that PCP withdrawal  
24 does not reflect an immediate or acute need?  
25 A. **It all depends on the context of each patient**

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1 **but commonly it's not a severe withdrawal**  
2 **syndrome.**  
3 Q. And are you aware of any writing at all  
4 that's ever been created by MEN D that  
5 reflects that PCP is not a drug that creates  
6 severe withdrawal concerns?  
7 A. **I can't tell you if there is specific writing**  
8 **on that. I know that we discussed this topic**  
9 **during training.**  
10 Q. If you could turn to Exhibit 38. Did you  
11 ever sign this note?  
12 A. **I didn't sign the note as described on this**  
13 **document.**  
14 Q. Is this a note that needed to be signed by a  
15 medical provider?  
16 A. **This doesn't necessarily have to be signed by**  
17 **a medical provider. But when we have code**  
18 **blue, this is what I was talking about**  
19 **discretionary, we typically review these.**  
20 Q. What is your understanding as to why it does  
21 not have to be reviewed by a medical  
22 provider?  
23 A. **I guess I'm not understanding the question.**  
24 **Sorry.**  
25 Q. Well, you said this document does not have to

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1 be reviewed by a medical provider, why is it  
2 that it does not have to be reviewed by a  
3 medical provider?  
4 **A. And I guess I should qualify the answer. It**  
5 **will absolutely be reviewed by a medical**  
6 **doctor and reviewed by me because it's a**  
7 **death involved. But if there is a code blue**  
8 **called in the facility, not every code blue**  
9 **needs to be necessarily reviewed by a medical**  
10 **provider. They are typically reviewed by our**  
11 **supervisor and we routinely review them, it's**  
12 **just not a mandate. But if there is a death**  
13 **in the facility, it absolutely will be**  
14 **reviewed.**  
15 Q. So you would absolutely personally review a  
16 document like this when there is a death at  
17 the facility?  
18 **A. Yes.**  
19 Q. So when you reviewed this document when there  
20 is a death in the facility, didn't you see  
21 that it was signing your name on October 7,  
22 2017, at 11:43/44 p.m.?  
23 **A. I didn't notice that. I did not notice that**  
24 **signature as I was reading through it.**  
25 Q. Would you have reviewed all of Dylan

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1 Brenner's medical records or just this code  
2 blue record?  
3 **A. Once there is a death involved, I would have**  
4 **went through and reviewed them.**  
5 Q. So you would have reviewed all of Dylan  
6 Brenner's medical records, including the last  
7 one we reviewed, and you didn't notice that  
8 they were signing your name?  
9 **A. I did not. It's not where we focus our eyes**  
10 **when we go through these notes.**  
11 Q. It wasn't important for you to determine who  
12 was actually creating these notes?  
13 **A. No, it says who created it. I just didn't**  
14 **notice that my name was affixed as the**  
15 **signature.**  
16 Q. Even though it's immediately below that?  
17 **A. Correct.**  
18 Q. And then did you advise MEnD employees to  
19 create notes after the fact in this case?  
20 **A. Questions came up about documenting a note**  
21 **after the fact, if it was feasible to do so.**  
22 **And when that question was asked, I said yes,**  
23 **you should still put in your note even if**  
24 **it's after the event.**  
25 Q. Is that the same advice that you would give

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1 if there was a suicide assessment that hadn't  
2 been completed?  
3 **MR. NOVAK:** I object to the form.  
4 **THE WITNESS:** I'm not sure of the  
5 question. I'm sorry.  
6 **BY MR. STORMS:**  
7 Q. Would you advise MEnD staff to create a  
8 suicide assessment after the fact?  
9 **A. If somebody hadn't completed and charted**  
10 **their documentation, I always want them to**  
11 **complete and chart their documentation,**  
12 **whether it's timely or late.**  
13 Q. Are you aware of situations where suicide  
14 assessments have been created after the death  
15 of an inmate?  
16 **MR. NOVAK:** I object to the form.  
17 **THE WITNESS:** A suicide assessment  
18 created after the death of an inmate?  
19 **MR. STORMS:** Yeah.  
20 **THE WITNESS:** I'm not sure what  
21 exactly you are asking.  
22 **BY MR. STORMS:**  
23 Q. Well, you have a copy of one of your suicide  
24 risk screening forms, right?  
25 **A. Correct.**

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1 Q. Are you aware of situations where one of  
2 those forms was ever completed and signed  
3 after the suicide of an inmate?  
4 **A. So I guess I'm going to break that question**  
5 **down into two parts. No one should -- if**  
6 **somebody had assessed a patient and had**  
7 **determined their results but had not put it**  
8 **into paper, I would want them to put into**  
9 **paper whether it was timely or late.**  
10 Q. Are you aware of a situation where someone  
11 put into paper on one of the suicidal risk  
12 screening forms after a MEnD patient  
13 committed suicide?  
14 **A. I can't recall. It's possible but I can't**  
15 **recall.**  
16 Q. Okay. We'll take a look at that later.  
17 **A. Okay.**  
18 Q. If you could turn your attention to Exhibit  
19 Number 44?  
20 **A. Okay.**  
21 Q. Is this one of the notes that you advised  
22 could be drafted after Mr. Brenner's suicide?  
23 **A. Yes, I was asked questions -- to the best of**  
24 **my knowledge I was asked questions about**  
25 **whether she was able to go back into the**

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1 system after this event and record what had  
2 transpired in the jail lobby, and I said  
3 absolutely you should.  
4 Q. And you reviewed this note at some point?  
5 A. Correct.  
6 Q. Some point shortly after Mr. Brenner's  
7 suicide?  
8 A. I can't give you an exact time. It would  
9 have been sometime soon thereafter.  
10 Q. And once again you did not notice that it had  
11 signed your name?  
12 A. I did not.  
13 Q. And Exhibit 45, this is a second document  
14 that was created late after Mr. Brenner's  
15 suicide?  
16 MR. NOVAK: I object to the form.  
17 THE WITNESS: I wouldn't consider  
18 this late entry, but I know it was a  
19 question I was asked of whether she  
20 could go in and chart this document  
21 after that event had occurred.  
22 BY MR. STORMS:  
23 Q. Why wouldn't you consider this a late entry?  
24 She called it a late entry herself.  
25 A. I'm not sure why she called it a late entry

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1 but it was within a few hours of her  
2 performing this task so I wouldn't consider  
3 that necessarily late.  
4 Q. You are saying that she wrote this note  
5 within a few hours after performing this  
6 task?  
7 A. She charted this information a few hours  
8 after she did the task.  
9 Q. Yeah, that's just not right. Mr. Brenner  
10 committed suicide on October 7, 2017.  
11 A. Oh, I apologize.  
12 Q. And this note was created on October 10,  
13 2017.  
14 A. I apologize. I just didn't spot the 10  
15 instead of the 7. My apologies. Correct.  
16 You are correct. It was created on 10/10/17.  
17 Q. So you would consider that a late chart note?  
18 A. I would, absolutely.  
19 Q. And charting should be completed before the  
20 end of someone's shift?  
21 A. That's always our goal. Always.  
22 Q. Do you know why these two chart notes were  
23 not created before the end of their shift?  
24 A. Which two are we discussing?  
25 Q. Exhibits 44 and 45.

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1 A. From my understanding both of these instances  
2 were the employees were hesitant to go in and  
3 chart after an event like that and basically  
4 wanted direction and approval to do so.  
5 That's the best I can tell you as to why they  
6 were documented when they were.  
7 Q. Were they hesitant because they were afraid  
8 they were going to be in trouble?  
9 A. No. Well, I guess in some ways they just  
10 didn't know if you, after a death in the  
11 facility, can you go back and put a chart  
12 note in, is that appropriate. So whether  
13 their concern was whether they were going to  
14 get in trouble or not, I don't know the  
15 answer to that. I just know that's the  
16 question I was posed was is it appropriate to  
17 go in and chart the information that I need  
18 to chart after there is a death.  
19 Q. Doesn't any death -- like doesn't every death  
20 that happens within a medical facility result  
21 in a chart note that's created after someone  
22 dies?  
23 A. I'm not sure I'm following.  
24 Q. Sure. There should be a chart note that  
25 charts every person's death at a medical

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1 facility, correct?  
2 A. There is typically some sort of medical  
3 encounter or chart note that documents the  
4 death.  
5 Q. That's always created after they die?  
6 A. I would call it real time but that's I guess  
7 our different definitions.  
8 Q. So you think that it's charted in real time,  
9 it's being charted as the person is dying?  
10 A. No. I'm just saying from a reasonable  
11 perspective you are charting promptly after  
12 the event of what transpired at that event  
13 and these were not documented in that way.  
14 Q. Right. So does it concern you that the  
15 medical professionals working at MEnD didn't  
16 understand that they could chart after  
17 somebody dies?  
18 A. Oh, I think it was given the time frame. And  
19 I don't remember the exact time frame but it  
20 wasn't five minutes afterwards, that sort of  
21 thing.  
22 Q. And once again in Exhibit 45, this signed  
23 your name but you did not notice that?  
24 A. I did not.  
25 Q. And then Exhibit Number 46, this is another

1 chart note that reflects that you signed it,  
2 and that again is incorrect?  
3 **A. Yes. It was created by Brittany and when she**  
4 **signed it, it placed, however you want to use**  
5 **the word, my name.**  
6 Q. So when Mr. Lynas died back in 2017, you  
7 reviewed all of his records as well, correct?  
8 **A. Yes.**  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 Q. Have you ever personally created any logs or  
15 audit trails from the eMD system?  
16 **A. Personally created any audit or log trails.**  
17 **I don't know if I've personally done that. I**  
18 **don't know.**  
19 Q. You have an understanding that those things  
20 are created?  
21 **A. I understand they can be created.**  
22 Q. And you've seen examples of those logs and  
23 audit trails?  
24 **A. I have.**  
25 Q. Have you ever had reason to request that they

1 be created on your behalf so you could review  
2 charting?  
3 **A. To review an audit trail?**  
4 Q. Yeah, to review an audit trail of a chart  
5 note?  
6 **A. I don't recall. I don't recall if I have**  
7 **personally.**  
8 Q. How often do you personally work in the eMD  
9 system?  
10 **A. It varies. I don't know if I can give you an**  
11 **answer to that.**  
12 Q. Once a week?  
13 **A. At times.**  
14 Q. Let me just pull this up for you because it  
15 will make it a little easier. To the extent  
16 you can read it, I was just going to turn  
17 your attention to Exhibit 98.  
18 **MR. NOVAK:** This one goes to 85.  
19 **MR. STORMS:** Sorry. It goes --  
20 here you go. It goes longer beyond the  
21 tab, we just hadn't gotten those.  
22 **THE WITNESS:** Sorry, I'm not able  
23 to.  
24 **MR. STORMS:** Yeah, it's okay. I'll  
25 blow it up for you electronically.

1 **MR. NOVAK:** We can go off the  
2 record just for a second.  
3 (There was a discussion off  
4 the record.)  
5 **BY MR. STORMS:**  
6 Q. I'm just going to show you a blown up version  
7 of Exhibit 98.  
8 **A. Okay.**  
9 Q. Have you ever seen eMDs documents that are  
10 created that look like that?  
11 **A. EMDs documents that are created that look**  
12 **like this screen?**  
13 Q. Yep. That reflect the chart notes, the date  
14 they are entered, who entered them?  
15 **A. I don't know about a specific document that's**  
16 **created this way, I just know that this is a**  
17 **view in eMDs that you can use at your**  
18 **discretion.**  
19 Q. So that shows you the time certain notes were  
20 placed in?  
21 **A. Well, I mean, on the screen it gives you the**  
22 **date, you have to open it.**  
23 Q. Sorry. So you know there is a view that  
24 shows who the note owner is, what the type  
25 is, and what the assessment is and the date,

1 you are familiar with that?  
2 **A. I'm familiar with that view.**  
3 Q. Is that a view that you've used for a  
4 significant period of time?  
5 **A. I've used that view I'm sure many times.**  
6 Q. Going back to prior to 2017?  
7 **A. I'm assuming so, yes. Again, I don't know**  
8 **when they had the update to eMDs with the**  
9 **appearance of the charts and such but --**  
10 **MR. STORMS:** Let's go off the  
11 record.  
12 (A break was taken.)  
13 (Exhibit Number 106 was  
14 marked for identification.)  
15 **BY MR. STORMS:**  
16 Q. Dr. Leonard, I'm handing you what's been  
17 marked as Exhibit 106. Please take the  
18 opportunity to review this document,  
19 including your signature page at the end.  
20 **A. Okay.**  
21 Q. Have you reviewed Exhibit 106 before?  
22 **A. I have.**  
23 Q. And you verified under oath that the  
24 information was true and correct?  
25 **A. Again, as a non-attorney I did what I was**

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1 **instructed, I guess, whatever that term.**  
2 Q. Well, you can see that acknowledgment you  
3 signed?  
4 A. **Correct.**  
5 Q. And you saw that you were sworn, right?  
6 A. **Again, I'm just not as intimately**  
7 **knowledgeable in the terms as you.**  
8 Q. Sure. But you understood that you were  
9 providing truthful information?  
10 A. **Correct.**  
11 Q. Did you help your lawyers compile the  
12 information in response to this?  
13 A. **Yes.**  
14 Q. I'd like to turn your attention to question  
15 number eight or Interrogatory number eight,  
16 it's on page four.  
17 A. **Okay.**  
18 Q. Does that reflect accurately the counties  
19 that MENd was providing service to in October  
20 of 2017 in Minnesota?  
21 A. **Yes, it should be.**  
22 Q. So when did the Stearns County contract  
23 terminate?  
24 A. **The end of 2017.**  
25 Q. Is that the same for Benton?

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1 A. **Correct.**  
2 Q. And did you pick up any new counties after  
3 those terminations?  
4 A. **We have grown since this time, yes.**  
5 Q. Which other counties have you picked up since  
6 then?  
7 A. **Oh, I can go off the top of my head, it may**  
8 **not be fully inclusive.**  
9 Q. I'll give you a hand.  
10 **MR. STORMS:** Can we mark this as  
11 Exhibit 107?  
12 (Exhibit Number 107 was  
13 marked for identification.)  
14 **THE WITNESS:** I'm sorry, what is  
15 the question?  
16 **BY MR. STORMS:**  
17 Q. Yeah. So which additional counties have you  
18 added as clients since October 2017?  
19 A. **I know one -- and you are talking until the**  
20 **present?**  
21 Q. Correct.  
22 A. **Okay. I know we've added West Central**  
23 **Regional Juvenile Center.**  
24 Q. So not a county but a juvenile center?  
25 A. **Within Clay County.**

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1 Q. Is that a government entity or a private  
2 entity?  
3 A. **It's like a regional -- I'm not sure who has**  
4 **true ownership of it but it serves multiple**  
5 **counties in the area. But it's physically**  
6 **located in Moorhead right across the street**  
7 **from the jail. We've began working with**  
8 **Becker County since that time. Yeah. We've**  
9 **began working with Pine County, Meeker**  
10 **County. The nature of our contract with**  
11 **Dakota County has changed.**  
12 Q. In what way?  
13 A. **We used to be just nursing staff and didn't**  
14 **provide the medical providership or the**  
15 **medical health services and now they've**  
16 **incorporated all of that into a new contract**  
17 **with us, we supply all the services now. We**  
18 **have started working with Jackson County**  
19 **since this time. And I believe that is it.**  
20 Q. Are you able to say back in 2017 how many  
21 counties you were working with in Iowa and  
22 Wisconsin?  
23 A. **Yeah, in Wisconsin we would have just been**  
24 **working with Douglas County, Wisconsin. And**  
25 **in Iowa in 2017 we would have been working**

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1 **with Story County. And I am almost certain**  
2 **we were already working with Hardin during**  
3 **that time.**  
4 Q. And my understanding is that you do not have  
5 a medical doctor that you were contracting  
6 with in Wisconsin; is that right?  
7 A. **We just have our medical provider team that**  
8 **works in those facilities.**  
9 Q. Are you licensed to practice in Wisconsin?  
10 A. **Correct.**  
11 Q. Oh, you are?  
12 A. **Yes.**  
13 Q. And you are not licensed in Iowa, though?  
14 A. **I am.**  
15 Q. But you still use a medical doctor in Iowa  
16 anyway?  
17 A. **Yes.**  
18 Q. Why is that?  
19 A. **Just kept that, it's a great working**  
20 **relationship, he does fine work. We just**  
21 **kept that relationship intact.**  
22 Q. Are you licensed any other states other than  
23 Minnesota, Iowa, and Wisconsin?  
24 A. **Illinois and South Dakota.**  
25 Q. Does MENd provide services in South Dakota?

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1 A. We now have started working with Codington  
2 County.  
3 Q. When did you get licensed in South Dakota?  
4 A. 2018 or 2019, I just don't recall. Sorry.  
5 Q. And then at some point in time did you become  
6 involved in attempting to identify who all  
7 the inmates were who committed suicide in  
8 MEnD facilities?  
9 A. Did I get involved in what?  
10 Q. Providing information related to the inmates  
11 who committed suicide?  
12 A. In some way, shape, or form, yes.  
13 Q. Do you keep a list of inmates who commit  
14 suicide in MEnD facilities?  
15 A. We started formally documenting numbers of  
16 suicides as of 2017 with other data. The  
17 names aren't specifically on there but the  
18 where they were are, in part, within our  
19 statistics that we keep.  
20 Q. Prior to that you did not keep readily  
21 available information on who the inmates were  
22 that committed suicide in MEnD's care?  
23 A. We have information at our disposal, we just  
24 weren't tracking those particular statistics  
25 before then.

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1 Q. At any point in time if someone asked you,  
2 MEnD, to name all the inmates who committed  
3 suicide in Minnesota from a certain date on,  
4 you could name those individuals?  
5 A. I would have to reference, you know,  
6 documentation, but I could.  
7 Q. So I want to turn your attention to  
8 Interrogatory number 14, that asks to  
9 identify all those inmates, and then on the  
10 next page you see an answer and then a  
11 supplement.  
12 A. Okay.  
13 Q. And you signed off on this document as being  
14 accurate. Is there a reason that you did not  
15 identify all the inmates who committed  
16 suicide in MEnD's care in this answer?  
17 A. I'm not sure I understand the question. I'm  
18 sorry.  
19 Q. Well, you have an understanding that that is  
20 not a complete list in Interrogatory number  
21 14 of all inmates who committed suicide in  
22 MEnD's care?  
23 A. Oh, ever?  
24 Q. Yeah.  
25 A. Yeah, we produced the people who committed

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1 suicide during the time frame that I thought  
2 that I understood in working with my counsel  
3 that was needed for this document.  
4 Q. And you thought that was 2017 to 2019?  
5 A. Correct.  
6 Q. Are you saying that you accurately provided  
7 all the individual's names who committed  
8 suicide over that time period in this answer?  
9 A. It should be.  
10 MR. STORMS: Can we mark that as  
11 Exhibit 108, please?  
12 (Exhibit Number 108 was  
13 marked for identification.)  
14 BY MR. STORMS:  
15 Q. I'll show you what's been marked as Exhibit  
16 108, which was provided in response to motion  
17 practice by us.  
18 A. Okay.  
19 Q. The answer that you verified in Interrogatory  
20 -- or in Exhibit 106 did not identify  
21 Stephanie Bunker, correct?  
22 A. Oh, it was mistyped.  
23 Q. It should have been Stephanie Bunker --  
24 A. And not Stephanie King.  
25 Q. Did you have access to the information prior

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1 to that the entire time, meaning suicides  
2 going back to 2013 and 2012?  
3 A. Did I have access to what? I'm sorry.  
4 Q. Did you have access to the information, the  
5 individuals who had committed suicide,  
6 previously?  
7 A. I had access to it, yeah.  
8 Q. Now, Stephanie Bunker, you've been sued by  
9 her family; is that correct?  
10 A. Yes. It was just filed.  
11 Q. Have you reviewed the complaints in that  
12 case?  
13 A. To some degree. Not thoroughly yet.  
14 Q. Have you reviewed Ms. Bunker's medical  
15 records?  
16 A. Again, not thoroughly. I've reviewed her  
17 medical records in the past but more recently  
18 I have not thoroughly reviewed them.  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

19 Q. Is there a way that you'd be able to tell why  
20 it was you were at the Beltrami County Jail  
21 on July 7, 2017?

22 A. Specifically that day?

23 Q. Yes.

24 A. I don't know. I may be able to, I don't  
25 know.



[REDACTED]

8 Q. Is Beltrami County Jail a place you traveled  
9 to on a regular basis?

10 A. **I don't know what you would consider regular.**

11 Q. How many times a year do you travel to the  
12 Beltrami County Jail?

13 A. **At least a few. Just depends on what is  
14 occurring there.**

15 Q. Do you travel to the facilities -- do you  
16 travel to each facility when an inmate  
17 commits suicide?

18 A. **Typically. Depending on the situation. Most  
19 likely but not always.**

20 Q. Do you try to get there that day?

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

Page 159

[REDACTED]

Page 158

[REDACTED]

Page 160

[REDACTED]

Page 161

[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

5 Q. If someone is put on a watch because they are  
6 suicidal, MENd policies and protocols require  
7 that the patient be screened on a daily  
8 basis, correct?

9 A. **If a patient is on suicide watch full**  
1 [REDACTED]

[REDACTED]

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[REDACTED]

- 19 Q. Would you engage in emailing with your  
20 employees at the Beltrami County Jail related  
21 to suicidality issues?  
22 A. **No, that would not be typical.**  
23 Q. It would always be on the phone?  
24 A. **It would customarily be phone calls because**  
25 **of the nature of the concern.**

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[REDACTED]

Page 166

[REDACTED]

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[REDACTED]

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4 Q. So after Stephanie Bunker died did you do an  
5 investigation into her suicide?

6 A. Yes.

7 Q. Tell me who participated in that  
8 investigation?

9 A. I don't have all names off the top of my head  
10 but anybody that I would have needed  
11 information from.

12 Q. Would you have created documents related to  
13 that investigation?

14 A. Not typically. If I felt there was a  
15 systemic issue or a significant process issue  
16 I would have.

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13 BY MR. STORMS:

14 Q. And there were no policy changes for MEnD as  
15 a result of Ms. Bunker's suicide; is that  
16 true?

17 MR. NOVAK: Form. Go ahead.

18 THE WITNESS: I don't recall any  
19 particular policy changes. However, in  
20 our company we are frequently  
21 reevaluating everything that we do and  
22 try to fine tune all of our process. I  
23 don't recall any particular policy  
24 change directly from this case, though.  
25

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9 Q. So why not perform a similar review for other  
10 suicides such as Ms. Bunker's?

11 A. I would do those reviews, I just wouldn't  
12 create a formal document about it.

13 Q. So should there be emails somewhere  
14 reflecting reviews that were done related to  
15 Ms. Bunker?

16 A. I don't know if there is emails related to  
17 that. I don't know.

18 Q. Have you ever looked?

19 A. If I have emails related to what?

20 Q. Related to a mortality review or a similar  
21 review into Ms. Bunker's suicide?

22 A. No, I haven't done a particular search for  
23 that.

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21 Q. Have you ever fired any MENd employee for  
22 their conduct related to a suicide?

23 A. I don't recall.

24 Q. None that you can identify?

25 A. I just don't recall.

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1 Q. Of the suicides that have occurred at MENd,  
2 have you ever provided training specifically  
3 as a result of any one suicide?

4 MR. NOVAK: I object to the form.

5 THE WITNESS: I'd have to have you  
6 repeat that. I'm sorry.

7 BY MR. STORMS:

8 Q. Yeah. With respect to suicides that have  
9 occurred at MENd facilities, has MENd ever  
10 provided training specifically as a result of  
11 any one suicide?

12 MR. NOVAK: Form.

13 THE WITNESS: I can tell you in the  
14 Brenner case there was a couple of items  
15 that were rediscussed with staff at  
16 Sherburne following that. I just don't  
17 recall beyond that specifics.

18 BY MR. STORMS:

19 Q. What were the items that were rediscussed as  
20 a result of the Brenner case?

21 A. I'd have to look at their agenda but one of  
22 them was encouraging that nursing do a  
23 chemical withdrawal flow sheet initiated once  
24 they've been identified to have an illegal  
25 substance on board. That was one. I don't

1 **recall what the other one was off the top of**  
2 **my head.**  
3 Q. When you say agenda, what agenda are you  
4 talking about?  
5 A. **We have monthly staff meetings.**  
6 Q. And there was a monthly staff meeting where  
7 there were issues specific to Brenner that  
8 were discussed?  
9 A. **I don't know if it was specific to Brenner**  
10 **but it included Brenner.**  
11 Q. Did you review that agenda in preparation for  
12 today's deposition?  
13 A. **Yes.**  
14 Q. What other items were listed on that agenda?  
15 A. **I just don't recall without seeing the**  
16 **document.**  
17 Q. And the issue you've identified with respect  
18 to eMDs and signing your name, so we're going  
19 to go and do our own review of the eMD  
20 system, is that something that's easily  
21 recreated, something signing your name, is  
22 that something we could be shown?  
23 A. **That event?**  
24 Q. Yes.  
25 A. **Yes, absolutely you could. We have test**

[REDACTED]

1 **patients on there that we can show you.**  
2 Q. And to the best of your knowledge, it's just  
3 not capable of having the right person sign  
4 off on these documents on eMDs at the  
5 Sherburne County Jail?  
6 A. **Yeah, it's literally the signature stamp for**  
7 **whatever reason defaults to my name. And I**  
8 **don't believe it's on every encounter visit**  
9 **but it's on some.**  
10 Q. And have you personally engaged in  
11 conversations with eMD?  
12 A. **No. We discussed this earlier. I don't**  
13 **recall if I've had personal conversations**  
14 **with them directly or not, but I know Diana**  
15 **VanDerBeek has had multiple direct**  
16 **conversations with them and she's had**  
17 **multiple direct conversations with me about**  
18 **this issue. I just don't recall if I was on**  
19 **a conversation with them directly or not.**  
20 Q. Are you familiar with Matthew Haas?  
21 A. **Yes.**

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

8 Q. And MEN D made no specific changes to any of  
9 its policies or practices specifically as a  
10 result of any of those three suicides?  
11 A. **Nothing particular to those suicides. Again,**  
12 **we frequently are reviewing all of our**  
13 **processes, procedures, aspects of care. So**  
14 **changes could have been made along the way**  
15 **but they wouldn't be particular to each case.**

[REDACTED]

Page 182

[REDACTED]

Page 184

[REDACTED]



Page 185

[REDACTED]

Page 187

[REDACTED]

Page 186

[REDACTED]

Page 188

[REDACTED]

Page 189

[REDACTED]

17 Q. I mean, aside from the county, is there --  
18 well, in Minnesota who provides oversight for  
19 MEnD, is it the Department of Corrections?  
20 A. **The Department of Corrections ultimately**  
21 **provides oversight for operations within a**  
22 **jail facility.**  
23 Q. Do they have to inspect and approve of the  
24 medical care that you are generally providing  
25 as an organization?

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[REDACTED]

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1 A. **As it relates to their standards during their**  
2 **inspections and audits.**  
3 Q. Does DHS get involved in auditing you at all  
4 related to practicing medicine at the  
5 correctional facilities?  
6 A. **Not that I'm aware of.**  
7 Q. Any other third party entities? I guess the  
8 United States government does, right?  
9 A. **They certainly can. I am unaware if there**  
10 **has been that. Also depending on the agency**  
11 **that you house detainees for, they also have**  
12 **their inspections and standards and such.**  
13 Q. ICE does inspections?  
14 A. **Yep.**  
15 Q. So how about in Wisconsin, who is the  
16 governing body that does inspections of your  
17 jails?  
18 A. **Department of Corrections do regular**  
19 **inspections.**

[REDACTED]

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[REDACTED]

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Page 195

[REDACTED]

1 [REDACTED]  
2 **MR. STORMS:** Let's take a quick  
3 break.  
4 (A break was taken.)  
5 **BY MR. STORMS:**  
6 Q. Does MENd internally have a definition that  
7 distinguishes acute suicidality from  
8 non-acute suicidality?  
9 **A. I'm aware of those terms. I would say in our**  
10 **current policies and protocols we just don't**  
11 **classify people to those terms at this time.**  
12 Q. Was there a distinction that was used back in  
13 October of 2017 between those two terms?  
14 **A. Again, we don't really subscribe to those**  
15 **terms in our policies and protocols so I**  
16 **can't answer that.**  
17 Q. So there was not a practice at MENd to only  
18 commence suicide watches if someone was  
19 acutely suicidal?  
20 **A. Well, our process is this, if they meet hard**  
21 **criteria to be on a suicide watch,**  
22 **absolutely. But anybody can put anybody on**  
23 **suicide watch if they have concerns. Medical**  
24 **staff, correctional staff.**  
25 Q. What are the hard criteria that you just

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[REDACTED]

1 referenced?  
2 **A. Well, it would mean more that if they had**  
3 **abnormalities or irregularities that created**  
4 **conversation with a medical provider, a**  
5 **medical provider or the mental health**  
6 **professional, may just solely on their own**  
7 **put someone on suicide watch as well.**  
8 Q. And MENd provides training to all its  
9 employees on an annual basis on suicidality?  
10 **A. All nursing staff and higher.**  
11 Q. And MENd employees, in addition to having  
12 access to eMDs at Sherburne County, also have  
13 access to the ProPhoenix system?  
14 **A. I forgot the first part of that question, I'm**  
15 **sorry.**  
16 Q. In addition to eMDs, MENd employees at the  
17 Sherburne County Jail also have access to the  
18 ProPhoenix system?  
19 **A. Correct.**  
20 Q. Are you aware of the fact as you sit here  
21 today that MENd's investigation revealed that  
22 Dylan Brenner had a suicide flag on the  
23 ProPhoenix system?  
24 **A. Yes, I'm aware that he had a suicide flag,**  
25 **it's a flag that is on ProPhoenix, once it's**

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1 placed, it does not come off, it will follow  
2 you no matter how long down the road. So  
3 it's a suicide flag from a previous  
4 incarceration.

5 Q. It's something medical staff should be  
6 inquiring into if they observe it, correct?

7 MR. NOVAK: I object to the form.

8 THE WITNESS: When involved in any  
9 case, when that case requires that they  
10 need to review those issues, they will  
11 absolutely review them.

12 BY MR. STORMS:

13 Q. So Christina Leonard, if she observed the  
14 suicide flag in ProPhoenix, should have been  
15 asking follow-up questions, correct?

16 MR. NOVAK: I object to the form,  
17 incomplete hypothetical.

18 THE WITNESS: So unless there is  
19 some risk of imminent harm described or  
20 reported from booking, she would have  
21 delved into those issues during her  
22 face-to-face encounter with that  
23 patient.

24 BY MR. STORMS:

25 Q. And so if Dylan Brenner had a ProPhoenix flag

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1 indicating that he was a suicide risk, you  
2 would have expected that there would have  
3 been a face-to-face during that initial shift  
4 that night, correct, between someone from  
5 MENd and Dylan Brenner?

6 A. Not necessarily. Because that suicide flag  
7 can come from previous interactions. It  
8 would have to be an initial presentation  
9 facility, some sort of report of imminent  
10 concern, imminent concerns about someone's  
11 suicidal risk from the staff in the booking  
12 department.

13 Q. Well, why is it that prior suicidality is  
14 assessed as part of the suicide risk  
15 screening form?

16 A. I'm sorry?

17 Q. Why is prior suicidality assessed as a risk  
18 in MENd's suicide risk screening form?

19 A. Because amongst a number of other useful  
20 pieces of information, it's a useful piece of  
21 information for us.

22 Q. And individuals who have previously been  
23 suicidal, that places them at an increased  
24 risk for current suicidality as well based  
25 upon MENd's own training, correct?

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1 A. It can depending on the particular patient  
2 and circumstances. And what is more  
3 concerning is if they've got more recent  
4 history of suicide risk, like within the last  
5 three months.

6 Q. Where does it say within three months  
7 anywhere on MENd's training?

8 A. I don't know if it's in written form or not,  
9 I'd have to look.

10 Q. And you can't just take an inmate at their  
11 word, can you, with respect to whether or not  
12 they are suicidal based upon screening,  
13 correct?

14 A. Well, you take some of the their word  
15 seriously, otherwise you'd never ask  
16 questions. Of course you want to have those  
17 questions answered and get their answers. It  
18 just depends on the person, the context of  
19 the situation and case.

20 Q. Well, you created a logistics of intake video  
21 with Michelle Skroch, correct?

22 A. Skroch, yes.

23 Q. And you say yourself, your own words, are  
24 they are not going to just spoon feed this  
25 information to you, those are your own words?

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1 A. I may have said that, I don't recall.

2 Q. And so a MENd professional, whether it's a  
3 nurse or whomever else, who is assessing  
4 whether or not someone might be suicidal has  
5 to have an understanding that not all inmates  
6 are going to be up front with respect to  
7 their suicidal intentions, correct?

8 MR. NOVAK: I object to the form,  
9 incomplete hypothetical.

10 THE WITNESS: Again, you have to  
11 take the context of each patient on its  
12 own merit. Each patient can be  
13 considerably different.

14 BY MR. STORMS:

15 Q. And Mr. Brenner had a ProPhoenix flag that  
16 indicated he was a suicide risk, true?

17 MR. NOVAK: Form.

18 THE WITNESS: No. He had a suicide  
19 flag, and that came from his previous  
20 incarceration where he said incendiary  
21 comments but never had any suicidal  
22 ideation or behaviors or comments.

23 BY MR. STORMS:

24 Q. In 2016 or 2017?

25 A. 2016.

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1 Q. So did Christina Leonard look into that?  
2 What is your understanding?  
3 **A. My understanding is she didn't look into that**  
4 **suicide flag because there would be no**  
5 **particular need to at that time based on the**  
6 **fact that she was getting no reports about**  
7 **this patient being an imminent risk to his**  
8 **own safety.**  
9 Q. What about the fact that he was identified as  
10 a suicide risk in the eMD system when  
11 Christina Leonard accessed that, similarly  
12 not relevant?  
13 **MR. NOVAK:** I object to the form,  
14 misstates the prior testimony. Go  
15 ahead.  
16 **MR. STORMS:** Which prior testimony?  
17 Because Exhibit 80 expressly states  
18 current problem, suicide risk.  
19 **MR. NOVAK:** Do you want to engage  
20 me on the record on this? I'm happy to  
21 do it.  
22 **MR. STORMS:** Yeah, go ahead.  
23 **MR. NOVAK:** He just gave you an  
24 explanation that you don't like about  
25 how these are context based and

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1 individual patient based. He also told  
2 you how and when the flag is used and  
3 you mischaracterized his testimony.  
4 **MR. STORMS:** That's not true at all  
5 because the eMD system says suicide risk  
6 right there. Correct? The eMDs.  
7 **MR. NOVAK:** My objection was that  
8 you mischaracterized his testimony. And  
9 you can feel free to review it when you  
10 get the transcript. If you have a  
11 question, go ahead and ask him.  
12 **BY MR. STORMS:**  
13 Q. You have in front of you Exhibit 80, correct?  
14 **A. Correct.**  
15 Q. And it identifies Dylan Brenner under current  
16 problems as a suicide risk, correct?  
17 **A. Yes. So the issue with this is this was**  
18 **placed under current problems back in 2016,**  
19 **this current problem was never removed**  
20 **because he left abruptly, I believe it was on**  
21 **August 1st, and then when he arrived back in**  
22 **2017, no one had removed this yet on his**  
23 **current problem list.**  
24 Q. So Christina Leonard needs to examine why  
25 that's listed as a current problem, doesn't

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1 she?  
2 **MR. NOVAK:** I object to the form.  
3 **THE WITNESS:** As I stated before,  
4 that's something that would have been  
5 done according to the process that we  
6 have in place, and unless there is some  
7 issue that comes to her from booking  
8 that says, hey, this gentleman is at  
9 imminent risk right now, I'm very  
10 concerned about him hurting himself down  
11 here, she would have reviewed these  
12 pieces of information in the normal  
13 process of his care.  
14 **BY MR. STORMS:**  
15 Q. So Christina Leonard observes a suicide risk  
16 denotation in eMDs, a suicide flag on  
17 ProPhoenix, and has an understanding that  
18 Mr. Brenner is in chemical withdrawal  
19 relative to PCP, and it's your testimony that  
20 Christina Leonard would not need to see  
21 Mr. Brenner that evening before she completed  
22 her shift?  
23 **MR. NOVAK:** Compound, misstates the  
24 record. Go ahead and answer.  
25 **THE WITNESS:** I'd have to break

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1 apart of lot of that. Number one, I  
2 can't speak for Christina Leonard  
3 specifically as we sit here today which  
4 item she saw at that time or not, I  
5 don't know. Secondly, again, these are  
6 useful pieces of information from his  
7 past that are going to be important  
8 during the normal course of care and  
9 process at the facility, but unless she  
10 hears something that is very concerning  
11 from the booking staff during the course  
12 of this gentleman's booking process,  
13 she'll be seeing this patient as she  
14 normally would.  
15 **BY MR. STORMS:**  
16 Q. Hold on now. You are designated under topic  
17 number 24 related to MENd's investigation  
18 into the suicide of Dylan Brenner.  
19 **A. I'm not sure what you are referencing.**  
20 **MR. NOVAK:** That's not a question.  
21 **BY MR. STORMS:**  
22 Q. I'm referencing Exhibit 103, the deposition  
23 notice, topic number 24.  
24 **A. Understood.**  
25 Q. So you are identified as a witness today on

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1     behalf of MEN D relative to the investigation  
2     into Dylan Brenner's suicide, you understand  
3     that?  
4     **A. Yes.**  
5     **Q.** Are you prepared to provide testimony on  
6     that?  
7     **A. I am.**  
8     **Q.** As part of MEN D's investigation did it learn  
9     whether or not Christina Leonard identified  
10    that Dylan Brenner's eMD file reflected that  
11    he was a suicide risk?  
12         **MR. NOVAK:** Form. Go ahead.  
13         **THE WITNESS:** I don't recall as we  
14         sit here today if she had seen both of  
15         those pieces of information or not. I  
16         don't recall.  
17    **BY MR. STORMS:**  
18    **Q.** You know she saw at least one of them?  
19    **A. I don't know.**  
20    **Q.** Okay.  
21    **A. I don't recall.**  
22    **Q.** So this is your patient who died and someone  
23    you supervised and you don't know whether or  
24    not the nurse who reviewed both his  
25    correctional file and his eMD files knows if

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1     he was identified as a prior suicide risk?  
2         **MR. NOVAK:** Form, foundation.  
3         **THE WITNESS:** So I'll back that up  
4         for a second. It wouldn't be one of the  
5         normal processes that she would have  
6         been conducting at that time unless  
7         there was something significant brought  
8         to her ahead of time. Hey, we got  
9         imminent concerns about this patient  
10        right now in booking based on our  
11        questioning and assessment of this  
12        patient. She would have had a deep dive  
13        into that information when it was her  
14        turn to see this patient.  
15    **BY MR. STORMS:**  
16    **Q.** But if you access ProPhoenix, there is a flag  
17    that says it right there, correct, on the  
18    first page you enter you have to see that  
19    flag?  
20    **A. I will agree with you that there is suicide**  
21    **flag that sits in the front page of**  
22    **ProPhoenix.**  
23    **Q.** And that's the front page of eMDs that given  
24    you in Exhibit 81, and on the front page of  
25    eMDs it reflected that Dylan Brenner was a

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1     suicide risk when she accessed it?  
2         **MR. NOVAK:** Form, asked and  
3         answered.  
4         **THE WITNESS:** First of all, this is  
5         historical information so it doesn't  
6         state that he's a suicide risk currently  
7         on eMDs, it just says that he's had a  
8         history of that.  
9    **BY MR. STORMS:**  
10   **Q.** What does it say? It says current risk,  
11   correct?  
12   **A. It says --**  
13   **Q.** Or it says current problems?  
14   **A. Yes, and patient just arrived in the**  
15   **facility. So it has to be from a previous**  
16   **incarceration.**  
17   **Q.** But it reflected that that current problem  
18   was a suicide risk, that was listed on the  
19   chart?  
20         **MR. NOVAK:** Asked and answered.  
21         **THE WITNESS:** Again, I'm telling  
22         you that suicide risk is listed under  
23         current problems, it wasn't a current  
24         problem when she would have opened this  
25         chart.

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1    **BY MR. STORMS:**  
2    **Q.** But she had an understanding that it was  
3    listed as a current problem, or she had to  
4    have seen it was listed as a current problem,  
5    and she had to have seen a suicide flag on  
6    ProPhoenix, both of those things have to be  
7    true, don't they?  
8         **MR. NOVAK:** I object to the form,  
9         compound.  
10        **THE WITNESS:** I've already answered  
11        this. I can't tell you with certainty  
12        that she saw these items.  
13    **BY MR. STORMS:**  
14    **Q.** Did you ever talk to her?  
15    **A. I have.**  
16    **Q.** Did you talk to her in preparation for your  
17    deposition today?  
18    **A. No.**  
19    **Q.** When you went and talked to her, did you ever  
20    ask her if she observed the flag in  
21    ProPhoenix?  
22    **A. I'm sure I did, I just don't recall whether**  
23    **she saw these items or not. I just don't**  
24    **recall.**  
25    **Q.** So did you ask her if she saw that problem on

| Page 209   | Page 211   |
|--|--|
| <p>1 eMDs?</p> <p>2 <b>A. I don't recall. And again, I will go back to</b></p> <p>3 <b>the fact that they are useful pieces of</b></p> <p>4 <b>information to notice, but unless there is an</b></p> <p>5 <b>issue of imminent risk that's being brought</b></p> <p>6 <b>to you as a nurse, you are going to discuss</b></p> <p>7 <b>these with this patient when it's your turn</b></p> <p>8 <b>to see that patient. Unless there is</b></p> <p>9 <b>something that is brought to you immediately</b></p> <p>10 <b>by booking staff or the like, you are going</b></p> <p>11 <b>to have them complete their process there and</b></p> <p>12 <b>then see the patient.</b></p> <p>13 Q. Well, if it was testified by -- if it was</p> <p>14 testified to by Kris Bauman -- or I'm sorry,</p> <p>15 if it was testified to by Rebecca Lucar that</p> <p>16 she informed Kristina Bauman that Dylan</p> <p>17 Brenner was a suicide risk, should Kristina</p> <p>18 Bauman have seen Dylan Brenner?</p> <p>19 <b>MR. NOVAK:</b> I object to the form,</p> <p>20 misstates the testimony, incomplete</p> <p>21 hypothetical.</p> <p>22 <b>THE WITNESS:</b> I don't characterize</p> <p>23 the conversation that Rebecca Lucar had</p> <p>24 with Kris Bauman the way you just</p> <p>25 described. From what I understand, the</p> | <p>1 <b>BY MR. STORMS:</b></p> <p>2 Q. Where are you developing your understanding</p> <p>3 that Rebecca Lucar did not inform Kris Bauman</p> <p>4 that there were suicide concerns related to</p> <p>5 Dylan Brenner, what is that based on?</p> <p>6 <b>MR. NOVAK:</b> Form.</p> <p>7 <b>THE WITNESS:</b> My review of the</p> <p>8 case.</p> <p>9 <b>BY MR. STORMS:</b></p> <p>10 Q. What, though? Is it talking to people, is it</p> <p>11 reviewing documents, what is that based on?</p> <p>12 <b>A. I think it's all of the above.</b></p> <p>13 Q. So as you sit here today, though, you cannot</p> <p>14 tell me whether or not Christina Leonard</p> <p>15 reviewed the eMDs or ProPhoenix flags related</p> <p>16 to Dylan Brenner and suicidality, right?</p> <p>17 <b>A. What I'm telling you is I don't recall</b></p> <p>18 <b>whether she did or not, but that wouldn't be</b></p> <p>19 <b>a mandate to the care that he was supposed to</b></p> <p>20 <b>get at that time based on the situation.</b></p> <p>21 Q. Well, she would need to review the</p> <p>22 constellation of all of his symptoms after</p> <p>23 getting that information, correct?</p> <p>24 <b>MR. NOVAK:</b> Form.</p> <p>25 <b>THE WITNESS:</b> Getting what</p> |
| Page 210   | Page 212   |
| <p>1 conversation was this patient is going</p> <p>2 to be having a prolonged booking</p> <p>3 process, he has reported that he takes</p> <p>4 medical marijuana, would probably be a</p> <p>5 good idea to have a urine drug screen</p> <p>6 taken given the length of that process,</p> <p>7 and so that's what they did.</p> <p>8 <b>BY MR. STORMS:</b></p> <p>9 Q. So to the best of your understanding,</p> <p>10 Kristina Bauman was never informed by Rebecca</p> <p>11 Lucar that Dylan Brenner was a suicide</p> <p>12 concern?</p> <p>13 <b>MR. NOVAK:</b> I object to the form.</p> <p>14 <b>THE WITNESS:</b> All I know is this,</p> <p>15 is that I know that from my</p> <p>16 understanding there was never any</p> <p>17 concerns that I'm acutely concerned</p> <p>18 about this gentleman. In fact,</p> <p>19 Sherburne County has a rightfully so</p> <p>20 aggressive track record if there was</p> <p>21 great concern about this man's safety</p> <p>22 for suicide, it is very common,</p> <p>23 incredibly common, for them to put him</p> <p>24 in Kevlar on suicide watch before they</p> <p>25 even make the phone call.</p>  | <p>1 information? I'm sorry.</p> <p>2 <b>BY MR. STORMS:</b></p> <p>3 Q. If she observes that Dylan Brenner has a</p> <p>4 prior history of suicidality at the Sherburne</p> <p>5 County Jail, she needs to take that</p> <p>6 information and assess it along with all the</p> <p>7 other information in her possession, correct?</p> <p>8 <b>MR. NOVAK:</b> Asked and answered.</p> <p>9 <b>THE WITNESS:</b> And as I stated</p> <p>10 before, that's exactly what she would</p> <p>11 have done.</p> <p>12 <b>BY MR. STORMS:</b></p> <p>13 Q. Well, did she do that?</p> <p>14 <b>A. Not at that time. And again, because of the</b></p> <p>15 <b>process that we were going through, and no</b></p> <p>16 <b>reports of any imminent concerns on this man,</b></p> <p>17 <b>we're greatly worried about this man's safety</b></p> <p>18 <b>right now, she was going to follow the</b></p> <p>19 <b>process, see this patient when it was her</b></p> <p>20 <b>turn to see him, and review his information</b></p> <p>21 <b>with him.</b></p> <p>22 Q. Did you ever expressly ask Christina Leonard</p> <p>23 why she did not see Dylan Brenner that</p> <p>24 evening?</p> <p>25 <b>A. I don't recall. I don't recall that question</b></p>             |

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1 **or not. I don't recall.**  
2 Q. So can you tell me anything about your  
3 conversation with Christina Leonard in terms  
4 of the information she conveyed to you  
5 relative to Dylan Brenner?  
6 A. **I'm just telling you I don't recall the**  
7 **specifics of it. I can tell you I reviewed**  
8 **the situation. I don't recall what**  
9 **particulars were in that conversation but**  
10 **I've reviewed the situation, I've reviewed**  
11 **the activities and actions taken by our**  
12 **staff, and they were doing things**  
13 **appropriately given the situation.**  
14 Q. Has anyone ever asked Christina Leonard from  
15 MEnD whether or not she observed the suicide  
16 risk denotation on eMDs or the suicide flag  
17 on ProPhoenix?  
18 A. **I don't know if those questions were asked**  
19 **specifically. I just can't answer the**  
20 **specifics of that conversation.**  
21 Q. What did you do to prepare to give me  
22 information about the specifics of those  
23 conversations as the 30(b)(6) designee for  
24 today?  
25 A. **I reviewed everything that I had at my**

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1 **disposal for this case.**  
2 Q. Could you have had a conversation with  
3 Christina Leonard before you provided  
4 testimony today?  
5 A. **I don't believe I can because she is on**  
6 **maternity leave.**  
7 Q. So you believe that you are unable to talk to  
8 her because she's on maternity leave?  
9 A. **I guess it's a concern, yes.**  
10 Q. Did you have a conversation with Diana  
11 VanDerBeek in preparation for today's  
12 deposition?  
13 A. **I had -- I gathered information from her but**  
14 **I didn't discuss merits of the case.**  
15 Q. So your preparation to provide testimony  
16 today relative to the investigation into  
17 Dylan Brenner, what did that preparation  
18 consist of?  
19 A. **Reviewing all the information I had before**  
20 **me, medical records, documents, deposition**  
21 **transcripts, all of it.**  
22 Q. And it's your testimony that Christina  
23 Leonard's decision not to see Dylan Brenner  
24 on the evening of October 6, 2017, conformed  
25 to the nursing standard of care?

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1 **MR. NOVAK:** I object to the form.  
2 **THE WITNESS:** What I'm saying is I  
3 think her decision that maybe not to see  
4 him at that time was very appropriate to  
5 the situation and information that she  
6 had.  
7 **BY MR. STORMS:**  
8 Q. And you wouldn't tell her to do anything  
9 differently today?  
10 A. **Regarding?**  
11 Q. Regarding her decision not to see Dylan  
12 Brenner?  
13 **MR. NOVAK:** Form.  
14 **THE WITNESS:** I would not have any  
15 issue with what -- the way she conducted  
16 herself in regard to having them  
17 complete the booking process, knowing  
18 that she was not getting any kind of  
19 grave concerns about this man's safety  
20 from booking, allow them to finish the  
21 booking process, and then let's see the  
22 patient.  
23 **BY MR. STORMS:**  
24 Q. So if you are training your nurses at MEnD  
25 today and you tell them you have an inmate

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1 who is there who has come into the jail and  
2 they have in their eMDs and their ProPhoenix  
3 a noted history of suicidality, your training  
4 would tell them unless you observe something  
5 else, you don't need to see them outside of  
6 the ordinary course of business?  
7 **MR. NOVAK:** Form, foundation,  
8 incomplete hypothetical. Go ahead.  
9 **THE WITNESS:** That's a long  
10 question. I would, first of all, argue  
11 that this patient did not have  
12 suicidality in his past, there was  
13 precautions taken in his past given an  
14 outburst that he had, and was taken off  
15 of that fairly quickly. I would say  
16 given all the information that was  
17 happening that evening and the concern  
18 that she was not getting, I would expect  
19 her to go through her normal course of  
20 operations.  
21 **BY MR. STORMS:**  
22 Q. If there wasn't a past history of  
23 suicidality, why was he in Kevlar before?  
24 A. **Because they were being precautionary.**  
25 Q. And why would you have in a medical record



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1 that he was a suicide risk if there wasn't a  
2 past history of suicidality?  
3 **A. Because as I explained to you before, for a**  
4 **nurse to complete and sign off on her chart**  
5 **or document in eMDs, you have to put**  
6 **something that is somewhat relative to the**  
7 **situation. That problem was put in by a**  
8 **nurse, the patient left abruptly I believe it**  
9 **was Monday, August 1st, that was never taken**  
10 **out of there as not a current issue anymore,**  
11 **and then when this patient arrived, it was**  
12 **very quickly thereafter that they are**  
13 **classifying him, screening him, and booking.**  
14 **Q. So are you saying that if he would have left**  
15 **in the ordinary course they would have**  
16 **removed that suicide risk from the current**  
17 **problems and wouldn't have that denoted any**  
18 **longer in eMDs?**  
19 **MR. NOVAK:** I object to the form,  
20 it's getting argumentative.  
21 **THE WITNESS:** I'm telling you this,  
22 if it's not an active problem, it's not  
23 an active problem. It would be put as a  
24 past problem.  
25

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1 **BY MR. STORMS:**  
2 **Q. And it's not important to review past**  
3 **problems when you have a new inmate come in?**  
4 **A. It's absolutely important to do it in the**  
5 **normal course of your operations and the**  
6 **normal course of what you are supposed to do**  
7 **based on the information you have. And**  
8 **again, there is no information being given to**  
9 **us that this man is exhibiting anything that**  
10 **is giving them grave concerns about his**  
11 **safety, so the decision to wait until they**  
12 **are done with the booking process, in my**  
13 **opinion, is very appropriate.**  
14 **Q. And so just to be clear, because you are**  
15 **ultimately responsible for training, correct,**  
16 **the training that's provided, you have to a**  
17 **approve it?**  
18 **A. So we've discussed this before as well, I**  
19 **approve, ultimately approve, but our training**  
20 **curriculum and activities is all a team**  
21 **effort. We put that together as a team and**  
22 **then I ultimately approve it.**  
23 **Q. And so in terms of training your staff at**  
24 **MEnD who operate under your license, is it**  
25 **your testimony that if your staff observes**

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1 both in eMDs and ProPhoenix a prior history  
2 of suicidality, that they can wait in terms  
3 of -- they can wait, I don't know, 24 hours  
4 to see an inmate before they assess them for  
5 suicidality?  
6 **MR. NOVAK:** Form, asked and  
7 answered.  
8 **THE WITNESS:** So I wouldn't  
9 characterize, first of all, as  
10 suicidality. And you'll have to repeat  
11 the question, it was a long question.  
12 **BY MR. STORMS:**  
13 **Q. If you provide training to your staff at MEnD**  
14 **today, is it your testimony that if they**  
15 **observe a history of suicidality in eMDs and**  
16 **ProPhoenix, that they can wait 24 hours**  
17 **before they personally meet with that inmate?**  
18 **MR. NOVAK:** Form.  
19 **THE WITNESS:** We don't train on a  
20 specific waiting period, what we train  
21 them on is go through the process,  
22 unless you've got an issue that's coming  
23 from booking, let them complete the  
24 booking process and then let's see the  
25 patient and let's review all the

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1 pertinent information and develop a  
2 plan.  
3 **BY MR. STORMS:**  
4 **Q. So when was that going to happen for Dylan**  
5 **Brenner?**  
6 **A. It would have been late afternoon to early**  
7 **evening on Saturday the 7th.**  
8 **Q. And the fact that he had these prior**  
9 **suicidality denotations in eMDs and**  
10 **ProPhoenix does not impact that timing at**  
11 **all?**  
12 **MR. NOVAK:** Form.  
13 **THE WITNESS:** It would happen much  
14 sooner and, again, I don't characterize  
15 those as suicidality, for the record I'm  
16 going to state that. Secondly is unless  
17 there was a concern that was being  
18 brought up initially from the booking  
19 staff, they would have just followed the  
20 process, okay, he's completed with his  
21 booking, his booking process, here is  
22 the information, now let's sit down with  
23 this gentleman and talk about all of his  
24 care.  
25

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1 **BY MR. STORMS:**  
2 Q. Are you distinguishing as a technicality  
3 between suicide risk and suicidality?  
4 A. **Oh, I don't call it a technicality at all.**  
5 Q. There is a difference?  
6 A. **Everybody has suicide risk. Suicidality**  
7 **would be a number of factors that you would**  
8 **be aware of of imminent risk.**  
9 Q. Well, if someone is placed in Kevlar, that's  
10 because there is a concern about imminent  
11 risk, correct?  
12 A. **So if someone is placed in Kevlar 15 months**  
13 **ago and is subsequently taken off of that**  
14 **full precautionary watch, that becomes less**  
15 **of an issue than a gentleman who was placed**  
16 **in Kevlar 30 minutes ago.**  
17 Q. Mr. Brenner left on special precautions  
18 still, though, didn't he?  
19 A. **He left on a 30 minute mental health watch,**  
20 **the lowest mental health watch we have**  
21 **without having a watch at all.**  
22 Q. But still had not been cleared for general  
23 population without a watch, correct?  
24 A. **I don't recall if he was cleared for general**  
25 **pop, I believe he was. But a lot of patients**

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1 **can be in general population with a 30 minute**  
2 **mental health watch. What it does is it**  
3 **causes the correctional officers to document**  
4 **more information during those visits for us.**  
5 Q. Does it impact your analysis at all if he was  
6 not cleared for general population in 2016?  
7 A. **If he would have left on suicide watch.**  
8 Q. If he left on administrative segregation?  
9 A. **Those are two different things. If he left**  
10 **on suicide watch, the booking department**  
11 **would have put him back on suicide watch.**  
12 **I'm very confident of that.**  
13 Q. If he leaves on admin seg, he has to return  
14 to admin seg, correct?  
15 A. **I believe that is the policy of Sherburne**  
16 **County.**  
17 Q. And if he was on a mental health watch when  
18 he left, he should return to that mental  
19 health watch?  
20 A. **Not necessarily. That's not a policy.**  
21 Q. Who assesses whether or not he should return  
22 to a mental health watch?  
23 A. **That's what this process is all about. Going**  
24 **through the booking process, the**  
25 **classification process, the health assessment**

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1 **from the nursing staff, all of that would**  
2 **determine -- and any consultation that was**  
3 **required therein would determine if this**  
4 **patient should be on any mental health watch**  
5 **at all or what level if so.**  
6 Q. So just to get this straight, are you saying  
7 that Dylan Brenner in 2016 wasn't a suicide  
8 risk?  
9 A. **I would say this, that he showed some anger**  
10 **and because of that anger people put him on**  
11 **full precautions, discussed the case with**  
12 **him, had a mental health professional**  
13 **evaluate him, and then was quickly taken off**  
14 **of it.**  
15 Q. So your staff chose the word suicide risk,  
16 correct? They wrote that down?  
17 A. **And I discussed that with you and explained**  
18 **that already.**  
19 Q. What, though? What have you explained?  
20 Right there in eMDs they wrote down suicide  
21 risk, right?  
22 **MR. NOVAK:** I object to the form.  
23 You are getting pretty argumentative,  
24 Jeff.  
25 **MR. STORMS:** I'm very argumentative

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1 because their records are nonsense.  
2 Your employee wrote --  
3 **MR. NOVAK:** Hang on. We're not  
4 doing the little one off with the  
5 comments like that. Can you just --  
6 **MR. STORMS:** I'll give you two. We  
7 have a doctor who signs a bunch -- his  
8 name has signed thousands of documents  
9 and then he writes suicide --  
10 **MR. NOVAK:** Jeff, if you want to  
11 ask him a question --  
12 **MR. STORMS:** I was asking him a  
13 question.  
14 **MR. NOVAK:** Quit pointing at the  
15 witness is my problem.  
16 **BY MR. STORMS:**  
17 Q. Your employee identified suicide risk. Your  
18 employee wrote that down, correct, in Exhibit  
19 80?  
20 A. **And as I explained before, our nursing staff,**  
21 **because they have to put something in eMDs**  
22 **under assessment that is somehow related to**  
23 **what they are doing, otherwise they can't**  
24 **sign off on the document, put in suicide risk**  
25 **as her -- and then at that point the patient**

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1 was put in full precautions, and then  
2 subsequently a mental health professional  
3 evaluated him and then took him off of those  
4 precautions after that visit.  
5 Q. Are you saying that suicide risk is a form  
6 entry that that person had to choose, that it  
7 wasn't their own words that they chose?  
8 A. I don't understand the question, sorry.  
9 Q. Well, they chose to write suicide risk, could  
10 they have written suicidal, did they have the  
11 option or the ability to write that if they  
12 wanted to?  
13 A. I would have to explore what their options  
14 were. I just don't have it committed to  
15 memory every option they have to put in  
16 there.  
17 Q. So you don't know whether or not -- but your  
18 testimony was they have to put something in  
19 due to the eMD system. So you don't know,  
20 though, whether or not they can choose their  
21 own words or have to choose words that are  
22 selected for them?  
23 A. There is a finite number of options that you  
24 can choose from.  
25 Q. So look at Exhibit 80, what's listed in

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1 current problems?  
2 A. I have reviewed this, I'm aware of it.  
3 Q. And what does it say on Exhibit 80 for  
4 current problems, what are they listed as?  
5 A. Hanging self, medication started. I can't  
6 read it. I'm sorry. Patient --  
7 MR. NOVAK: It's tough to read. Do  
8 you have --  
9 BY MR. STORMS:  
10 Q. Let me ask you this -- and I will take that  
11 copy back because he has one. Is it your  
12 understanding that hanging self is one of the  
13 finite options in eMDs?  
14 A. Am I aware of that? I am aware of that  
15 because it's in there.  
16 Q. I know, but are you saying that that's a  
17 finite option, the words hanging self, in  
18 current problems?  
19 A. I'm not understanding the question. I'm  
20 sorry.  
21 Q. Well, I asked you about suicide risk and  
22 whether or not those were words that were  
23 chosen by your employee, or if it's a form  
24 selection. And you had said you are not sure  
25 whether or not they are a finite or infinite

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1 selection?  
2 A. Yes.  
3 Q. And I'm asking you whether or not you believe  
4 hanging self to be something that is a  
5 predetermined selection?  
6 A. Okay. So there is a lot you said there.  
7 What I tried to explain to you earlier is you  
8 only have so many options to choose from in  
9 eMDs, I don't know off the top of my head how  
10 many options there are. But there are  
11 options that you can choose from. I'm not  
12 even sure if a nurse can pretext an  
13 assessment title.  
14 Q. So you don't know if hanging self is pretext  
15 or selected?  
16 A. I believe it is one of the options that you  
17 have.  
18 Q. Hanging self?  
19 A. I believe so.  
20 Q. Okay. So when we do our inspection, we'll be  
21 able to take a look at those options on eMDs?  
22 A. You should be.  
23 Q. Okay. And did you go back and ever look at  
24 the audit trail to determine when those  
25 current problems were listed in eMDs?

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1 A. Did I use an audit trail? I used medical  
2 records because there is notes created that  
3 -- and it explains to you on the health  
4 summary when those were entered. You don't  
5 need an audit trail to determine that.  
6 Q. So I'm asking you whether or not you ever  
7 went and reviewed an audit trail to determine  
8 the times that those current problems were  
9 entered?  
10 A. And my answer is no because I didn't need it.  
11 Q. Why?  
12 A. Because it's evident right on the chart when  
13 those were entered.  
14 Q. And you have an understanding that suicide  
15 risk was entered prior to Dylan Brenner  
16 committing suicide?  
17 A. It was entered in 2016 during a nursing  
18 assessment.  
19 Q. And if Christina Leonard -- so did you ever  
20 ask Christina Leonard if she went back and  
21 reviewed any of Dylan Brenner's historical  
22 records?  
23 A. You've asked me this already, and I answered  
24 it.  
25 Q. You don't remember if you asked her or you

1        didn't ask her?

2 **A. No, I said there was conversation with her**  
3 **about her actions, I just don't recall**  
4 **specifics of the conversation.**

5 Q. Don't you think it would have been important  
6 information to know, as you sit here today,  
7 whether or not she investigated Dylan  
8 Brenner's medical history?

9 A. What I'm saying to you is either way the  
10 actions that were taken and the clinical  
11 setting that was in place, she took  
12 reasonable steps, reasonable actions that  
13 night. And again, it's based on the fact  
14 that she did not have any imminent concerns  
15 of risk from the booking staff. You can have  
16 that information, it's historical, it's  
17 useful, and you'll use that information when  
18 you see that patient once they are done with  
19 the booking process.

20 Q. Have you ever reached a determination that  
21 any of your staff has ever been unreasonable  
22 with respect to their treatment of a detainee  
23 or inmate who has committed suicide?

**MR. NOVAK:** I object to the form.

**THE WITNESS:** I don't recall

1 by your personnel in that case that you were  
2 willing to pay that much money?

**MR. NOVAK:** Form.

4                   **THE WITNESS:** What we determined  
5                   from that case was that -- this is my  
6                   quick recollection -- is that staff  
7                   needed to do a better job of documenting  
8                   what they did, taking credit for their  
9                   work. So if there was a refusal from a  
10                  patient, make sure you document that  
11                  refusal. If there is a significant  
12                  encounter with a patient, you make sure  
13                  you document that. That's the one thing  
14                  I remember distinctly from that case.

**BY MR. STORMS:**

16 Q. So are you saying that your employees all  
17 provided adequate care in that case but they  
18 just failed to document that adequate care?

**MR. NOVAK:** Form.

20           **THE WITNESS:** That was our  
21           position, absolutely.

[REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

1 specifics to that level. And again, I  
2 would have to know what you mean by  
3 unreasonable. In general, unreasonable  
4 in particular activities? It would  
5 depend.

**BY MR. STORMS:**

7 Q. Do you know what it means to follow a nursing  
8 standard of care?

9 A. I think I do, yeah.

10 Q. Have you ever -- as you sit here today, have  
11 you ever reached a determination that any of  
12 your nurses violated a nursing standard of  
13 care with respect to the suicide of any  
14 inmate or detainee?

15 **A. I guess I wouldn't characterize it that way.**  
16 **What we look for is there anything that we**  
17 **can help train this employee so that they**  
18 **perform a better job. And it can be minor,**  
19 **it can be major, it depends on the situation**  
20 **and the case.**

21 Q. Your company paid \$850,000 to resolve the  
22 claim related to the suicide of Kyle Allan  
23 Baxter-Jensen; is that correct?

**24 A. That was a settlement, correct.**

25 O. What was it that could have been done better

10 Q. And adequate care in the Brenner matter?

11 A. Correct.

14 Q. Has MENd ever provided inadequate care, in  
15 your opinion, with respect to a suicide?

16 MR. NOVAK: Form, asked and  
17 answered.

18 THE WITNESS: I don't believe so,  
19 no.

20 BY MR. STORMS:

21 Q. So the only thing that MENd could have done  
22 better in relation to any of these suicides  
23 would just be to document good work better?

24 MR. NOVAK: Form.

25 THE WITNESS: No. What I'm saying

1 is in a couple of these cases there was  
2 some documentation issues that we  
3 addressed. But I feel like each one of  
4 those patients received adequate and  
5 appropriate care.

[REDACTED]

[REDACTED]

11 BY MR. STORMS:

12 Q. Even your contract, such as the one with  
13 Sherburne County, even denote that you have  
14 to have access to your patient's medical  
15 files even after termination of MENd  
16 services?

17 A. As required, yeah.

18 Q. And my understanding is that you had paid a  
19 settlement on the Josh Holscher case as well?

20 A. No. We were never sued on the Josh Holscher  
21 case.

22 Q. Aside from Kyle Allan Baxter-Jensen, are  
23 there other cases where MENd has paid a  
24 settlement to resolve the case?

25 A. Irregardless of suicide?

[REDACTED]

10 Q. And you prefer that your name not be  
11 incorrectly affixed as a signature to the  
12 Brenner and Lynas files?

13 A. I would prefer that the eMD system worked  
14 correctly and not have my name switched  
15 somehow as a signature stamp.

[REDACTED]

1 Q. No. Specifically with respect to suicide?  
2 A. I just want to be correct on this. No.

[REDACTED]

[illegible]

22 Q. Did you attend debriefings related to the  
23 suicide of Dylan Brenner?  
24 A. **I did not.**  
25 Q. Did you attend any meetings related to the

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1 suicide of Dylan Brenner?

2 **A. That's a broad question. Can you be more**

3 **specific?**

4 Q. Did you meet with other individuals from MENd

5 or Sherburne County to discuss the suicide of

6 Dylan Brenner?

7 **A. Other than my investigation of his death and**

8 **any preliminary conversation I would have had**

9 **with jail administration, and then our**

10 **quarterly meeting with Sherburne, I don't**

11 **recall any others.**

12 Q. Who did you specifically speak to as part of

13 your investigation into Dylan Brenner's

14 suicide?

15 **A. I don't have an exhaustive list committed to**

16 **memory today.**

17 Q. Tell me who you recall speaking to?

18 **A. At some point I spoke to Pat Carr, Diana**

19 **VanDerBeek, Michelle Skroch, Christina**

20 **Leonard. And beyond that I just don't recall**

21 **specific names.**

22 Q. What would have been the purpose of talking

23 to Michelle Skroch?

24 **A. Being the director of nursing and supervisor**

25 **for Diana VanDerBeek, I felt it important**

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1 **that she at least be aware of what I was**

2 **doing and any other questions she wanted to**

3 **ask or inject or --**

4 Q. Did she participate into the investigation of

5 Dylan Brenner's suicide?

6 **A. Loosely. Loosely.**

7 Q. Who participated in the investigation related

8 to James Lynas's suicide?

9 **A. I don't recall off the top of my head. I can**

10 **tell you that Diana VanDerBeek would have**

11 **been involved, Michael Robertson would have**

12 **been involved, Linda Pantzke would have been**

13 **involved, Jen Thompson would have been**

14 **involved. And beyond that I just don't**

15 **recall the others.**

16 Q. Who is Jen Thompson?

17 **A. Supervisory nurse at Sherburne County Jail.**

18 Q. So she's below Diana VanDerBeek?

19 **A. Diana VanDerBeek is her direct report.**

20 Q. When would she have been on duty as a

21 supervisory nurse typically?

22 **A. Depends when you are asking.**

23 Q. Do you know if she was on duty at the time of

24 Dylan Brenner's suicide?

25 **A. I don't believe so.**

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 Q. Have you ever provided training at MENd that

19 specifically addresses any individual

20 suicide?

21 **A. Can you repeat that?**

22 Q. Have you ever provided any training at MENd

23 that specifically addresses any individual

24 suicide, so a specific suicide?

25 **A. That's a difficult question to answer. When**

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1 **you say you provided, what do you mean by --**

2 Q. MENd. Has MENd provided training that

3 addresses any specific instance of suicide

4 that occurred in its care?

5 **A. I don't know if I'd ever categorize it that**

6 **way. Again, it's taking our core curriculum**

7 **principals, using that, and fine tuning that**

8 **over time. Unless a major systemic process**

9 **issue is discovered, those core principals**

10 **would remain the same with their usual**

11 **customary frequent tweaks, fine tunes, all**

12 **that sort of thing.**

13 Q. In obtaining the accreditation for Sherburne

14 County in 2018, were you required to submit

15 or help submit paper applications?

16 **A. When you say you, what do you mean by you?**

17 Q. Did MENd assist Sherburne County in

18 submitting paper applications?

19 **A. I'm sure we helped them to some extent. I**

20 **just don't recall, you know, how integrated**

21 **we were into that aspect of it.**

22 Q. Do you recall if you needed to provide

23 information relative to the suicides of Dylan

24 Brenner and James Lynas as part of those

25 accreditation processes?



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1 A. Can you repeat that again? I'm sorry.  
2 Q. Do you recall if you needed to provide  
3 information relative to the suicides of Dylan  
4 Brenner and James Lynas as part of those  
5 accreditation processes?  
6 A. I don't recall.  
7 Q. Have you ever been interviewed by law  
8 enforcement as part of an investigation into  
9 the suicide of Dylan Brenner?  
10 A. No.  
11 Q. Have you ever been interviewed by law  
12 enforcement as part of the investigation into  
13 any inmate who committed suicide at one of  
14 your facilities?  
15 A. It's possible I may have been interviewed, I  
16 don't know, it's possible for the Kyle Baxter  
17 case, but I just don't recall.  
18 Q. Did MENd have to provide any interviews to  
19 the Department of Correction -- did anyone  
20 from MENd have to provide interviews to the  
21 Department of Corrections as part of Dylan  
22 Brenner's suicide?  
23 A. I don't believe so.  
24 Q. Are you aware of the Department of  
25 Corrections conducting -- or have you ever

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1 personally had to give an interview to the  
2 Department of Corrections as part of the  
3 suicide of any inmate that occurred in MENd's  
4 care?  
5 A. I can recall having one conversation with a  
6 DOC inspector about a case, but I don't  
7 recall if it was actually a case that  
8 involved a death or it was just a case in  
9 general they had some concerns with, I just  
10 don't recall.  
11 Q. What were the concerns in that case?  
12 A. That's what I mean, I don't recall which it  
13 was. I can remember talking to a DOC  
14 inspector regarding a particular case, I just  
15 can't remember which one it was.  
16 MR. STORMS: I'm going to be  
17 finished with questions for now but I'm  
18 going to continue to maintain that we  
19 should be permitted to conduct  
20 additional -- or obtain additional  
21 deposition testimony regarding topics 30  
22 and 31 relative to the collection and  
23 preservation efforts.  
24 MS. ANGOLKAR: I have no questions.  
25 MR. NOVAK: We'll read and sign.

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1 Thank you.  
2 (Whereupon, the deposition  
3 was concluded at 4:15 p.m.)  
4 \* \* \*  
5 (REPORTER'S NOTE: The original deposition  
6 transcript is being delivered to Mr. Storms,  
7 after the completion of the reading and  
8 signing, pursuant to Rule 30.06 of the Rules  
9 of Civil Procedure, for filing with the  
10 Court.)  
11  
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1 I, TODD LEONARD, having read my deposition, do  
2 hereby attest to the accuracy of its  
3 transcription, noting any changes and the reasons  
4 therefore below.  
5 DATED:  
6 sah  
7  
8 TODD LEONARD  
9 Page and Line No. CHANGE REASON  
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1 STATE OF MINNESOTA)  
2 ) ss:  
3 COUNTY OF HENNEPIN)  
4 BE IT KNOWN, that I, STACY ANN HUTCHINSON,  
5 Court Reporter, a Notary Public in and for the  
6 County of Hennepin, State of Minnesota, certify  
7 that the foregoing is a true record of the  
8 deposition of TODD LEONARD, who was first duly  
9 sworn by me in my presence and reduced to writing  
10 in accordance with my stenographic notes made at  
11 said time and place.  
12 I further certify that I am not a relative or  
13 employee or attorney or counsel of any of the  
14 parties or a relative or employee of such  
15 attorney or counsel;  
16 That I am not financially interested in the  
17 action and have no contract with the parties,  
18 attorneys, or persons with an interest in the  
19 action that affects or has a substantial tendency  
20 to affect my impartiality;  
21 That all parties who ordered copies have been  
22 charged at the same rate for such copies;  
23 That the right to read and sign the deposition  
24 by the witness was not waived.  
25 IN WITNESS WHEREOF, I have hereunto set my  
hand on this 17th day of July, 2020.  
  
STACY ANN HUTCHINSON  
Court Reporter and Notary Public  
Hennepin County, Minnesota  
My commission expires January 31, 2025.

Page 254

1 July 17, 2020  
2  
3 Mr. Anthony J. Novak  
4 Larson King  
5 30 East Seventh Street  
6 Suite 2800  
7 St. Paul MN 55101  
8  
9 RE: Brenner -vs- MEnD, et al.  
10 Dear Mr. Novak:  
11 Enclosed is the errata page from the deposition  
12 of TODD LEONARD. Please have the witness read  
13 the deposition and indicate any changes and the  
14 reasons therefor on the errata sheet. When that  
15 is complete, please send a copy of the errata  
16 sheet to opposing counsel, and the original  
17 errata sheet to me.  
18 As you are aware, the witness has 30 days to  
19 complete the reading and signing procedure. I  
20 will need to receive the errata sheet by  
21 August 21, 2020, or signature is presumed waived.  
22 Thank you for your assistance.  
23 Sincerely,  
24  
25 Stacy A. Hutchinson  
Court Reporter  
cc: Jeffrey S. Storms, Esq.  
Stephanie A. Angolkar, Esq.